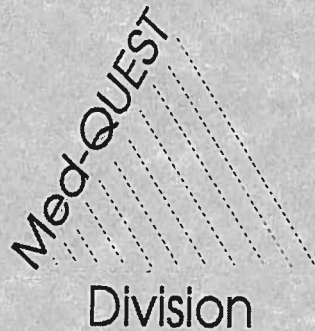


STATE OF HAWAII
Department of Human Services
Med-QUEST Division
Health Coverage Services Branch

REQUEST FOR PROPOSAL

RFP-MQD-2010-008
Ombudsman Services for QExA Members



Med-QUEST Division- Finance Office
Issued May 6, 2010

**State of Hawaii
Department of Human Services
Med-QUEST Division
Health Coverage Services Branch**

Request for Proposals

RFP-MQD-2010-008

**OMBUDSMAN SERVICES
FOR QExA MEMBERS**

May 6, 2010

Note: If this RFP was downloaded from the State Procurement Office RFP Website each applicant must provide contact information to the RFP contact person for this RFP to be notified of any changes. For your convenience, you may download the RFP Interest form, complete and e-mail or mail to the RFP contact person. The State shall not be responsible for any missing addenda, attachments or other information regarding the RFP if a proposal is submitted from an incomplete RFP.

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SECTION 10 ADMINISTRATIVE OVERVIEW

10.100 Purpose of the Request For Proposal

This Request for Proposal (RFP) solicits proposal from an organization to provide Ombudsman services who is able to receive and assist in the resolution of issues/concerns about access to, quality of, or limitations to, health care for QUEST Expanded Access (QExA) clients.

The organization to be contracted with for the provision of Ombudsman services shall not be affiliated with any of the QUEST or QExA health care plans contracted by DHS for the QExA Program. A list of the currently participating Hawaii QExA health plans can be found in Appendix I.

Ombudsman services is an alternative available to QExA clients to address and resolve their concerns and problems related to:

- ☐ Access to medical, dental, and behavioral health care;
- ☐ Quality of medical, dental, and behavioral health care; or
- ☐ Coverage for medical, dental, and behavioral health care.

Ombudsman services will provide a resource for clients to access and to assist with resolution of conflicts between the enrolled QExA client and the contracted medical, dental, and behavioral health plans of the QExA program up to the point of a Fair Hearing. The QExA Ombudsman Office may continue to assist a QExA client through the Fair Hearing process but shall not represent the client in the Fair Hearing.

Ombudsman services shall not be a replacement for the complaint and grievance process which all contracted medical, dental, and behavioral health plans are required to have in place, nor replace the right of a client to request a Fair Hearing with DHS. QExA clients may exercise their rights at any time to file a grievance with the plan or request for a Fair Hearing simultaneously.

The successful Offeror shall be responsible for all costs of providing the required services as described in this RFP. These include but are not limited to all staffing, office space, office equipment, travel expenses, computer hardware and software,

and data reporting capacity to perform the services described herein.

Offerors are advised that the entire RFP, any addenda, and the corresponding proposal shall be part of the contract with the successful offeror. The Department of Human Services (DHS) reserves the right to modify, amend, change, add, or delete any requirements in this RFP and in the documentation library to serve the best interest of the State. If significant amendments are made to the RFP, the State will consider allowing Offerors additional time to submit their proposals.

Offerors are encouraged to read each section of the RFP thoroughly. While sections may appear similar among RFP's, state purchasing agencies may add additional information as applicable. It is the responsibility of the Offeror to understand the requirements of each RFP.

10.200 Authority for Issuance of RFP

This RFP is issued under the provisions of the Hawaii Revised Statutes (HRS), Chapter 103F and its administrative rules. All prospective Offerors are charged with presumptive knowledge of all requirements of the cited authorities. Submission of a valid executed proposal by any Offerors shall constitute admission of such knowledge on the part of such Offeror. Failure to comply with any requirement may result in the rejection of the proposal. DHS reserves the right to reject any or all proposals received or to cancel this RFP, according to the best interest of the State.

10.300 Contracting Office

The Contracting Office is responsible for overseeing the contract(s) resulting from this RFP, including system operations, fiscal agent operations, and monitoring and assessing provider performance. The Contracting Office is:

Ms. Patricia Bazin, Health Care Services Branch Administrator
Department of Human Services/Med-QUEST Division
601 Kamokila Boulevard, Room 506A
Kapolei, HI 96707
Telephone: (808) 692-8083
Facsimile: (808) 692-8087

10.400 Organization of the RFP

This RFP is composed of ten sections plus appendices:

- Section 10 – Administrative Overview – Provides general information on the purpose of the RFP, the authorities relating to the issuance of the RFP and the organization of the RFP.
- Section 20 - RFP Schedule and Requirements– Provides information on the rules and schedules for procurement of the ombudsman services.
- Section 30 – Background – Describes the current medical assistance programs.
- Section 40 – Scope of Services– Provides information on the services to be provided under the contract.
- Section 50 – Terms and Conditions – Describes the terms and conditions under which the work will be performed.
- Section 60 – Technical Proposal – Defines the required format of the technical proposal and the minimum information to be provided in the proposal.
- Section 70 – Business Proposal – Defines the required format of the business proposal and the minimum information to be provided in the proposal.
- Section 80 – Evaluation and Selection – Defines the evaluation process.

Various appendices are included to support the information presented in Sections 10 through 80.

Section 20 RFP Schedule and Requirements

20.100 RFP Timeline

The delivery schedule set forth herein represents the DHS' best estimate of the schedule that will be followed. If a component of this schedule, such as the Proposals Due date is delayed, the rest of the schedule will likely be shifted by the same number of days. Contract start dates may be subject to the issuance of a notice to proceed. The proposed schedule is as follows:

Issue RFP	May 6, 2010
Orientation Conference	May 12, 2010
Submission of written questions	May 13, 2010
Written responses to questions	May 20, 2010
Notice of Intent to Propose	May 24, 2010
Receipt of Proposals	June 4, 2010
Contract Award	June 22, 2010
Implementation	July 1, 2010

20.200 Orientation Conference

An orientation for Offerors in reference to this RFP will be held on the date specified in Section 20.100, at 11:00 a.m. (H.S.T.) at the Med-QUEST Office, Kakuhihewa Building at 601 Kamokila Boulevard, #577A, Kapolei, Hawaii.

Offerors are encouraged to submit written questions prior to the Orientation conference. Impromptu questions will be permitted at the orientation and spontaneous responses provided at the discretion of the state purchasing agency. However, responses provided at the orientation conference are intended only as general direction and may not represent the official position of the state purchasing agency. Formal responses will be provided in writing. To ensure a written response, any oral questions should be submitted in writing following the close of the

orientation conference, but no later than the submittal deadline for written questions indicated in Section 20.100, Submission of Written Questions.

20.300 Submission of Written Questions

Offerors may submit questions in writing in Word 2003 format, or lower to the following physical or e-mail address:

Ms. Patricia Bazin
c/o Dona Jean Watanabe
Med-QUEST Division-Finance Office
1001 Kamokila Boulevard, Room 317
Kapolei, Hawaii 96707-2005
Fax: (808) 692-7989
e-mail: dwatanabe@medicaid.dhs.state.hi.us

The written questions shall reference the RFP section, page and paragraph number in the format provided in Appendix B. Offerors must submit written questions by 2:00 p.m. (H.S.T.) on the date specified in Section 20.100. DHS shall respond to the written questions no later than the date specified in Section 20.100. No verbal responses shall be considered as official.

20.400 Notice of Intent

Potential offerors shall submit a Notice of Intent to Propose to the Issuing Officer no later than the date set forth in Section 20.100 at 2:00 p.m., (H.S.T.). Submission of intent to propose is not a prerequisite for the submission of proposal, but it is necessary that the Issuing Officer receive the letter by this deadline to assure proper distribution of amendments, questions and answers and other communication regarding this RFP.

Notice of intent can be mailed or faxed to:

Ms. Patricia Bazin
c/o Dona Jean Watanabe
Med-QUEST Division-Finance Office
1001 Kamokila Boulevard, Room 317
Kapolei, Hawaii 96707-2005
Fax: (808) 692-7989

20.500 Tax Clearance

Pursuant to HRS Section 103-53, as a prerequisite to entering into contracts of \$25,000 or more, providers shall be required to submit a tax clearance certificate issued by the Hawaii State Department of Taxation (DOTAX) and the Internal Revenue Service (IRS). The certificate shall have an original green certified copy stamp and shall be valid for six (6) months from the most recent approval stamp date on the certificate. Tax clearance applications may be obtained from the Department of Taxation website at <http://hawaii.gov/tax/> (click on "forms").

Offeror is also required to submit an original current tax clearance certificate for final payment on the contract.

20.600 Certificate of Good Standing

All providers shall comply with all laws governing entities doing business in the State. Prior to contracting, owners of all forms of business doing business in the state except sole proprietorships, charitable organizations unincorporated associations and foreign insurance companies be registered and in good standing with the Department of Commerce and Consumer Affairs (DCCA), Business Registration Division. Foreign insurance companies must register with DCCA, Insurance Division. More information is on the DCCA website at <http://hawaii.gov/dcca> click on "Business Registration".

20.610 *Hawaii Compliance Express (HCE)*

Providers may register with HCE for online proof of DOTAX and IRS tax clearance Department of Labor and Industrial Relations (DLIR) labor law compliance, and DCCA good standing compliance. There is a nominal annual fee for the service. The "Certificate of Vendor Compliance" issued online through HCE provides the registered provider's current compliance status as of the issuance date, and is accepted for both contracting and final payment purposes. See website: <https://vendors.ehawaii.gov/hce/splash/welcome.html>

20.700 Documentation

Offerors may review information describing Hawaii's Medicaid programs (QUEST, QExA, or fee-for-service (FFS) by visiting the DHS MQD website: <http://www.med-QUEST.us>.

All possible efforts shall be made to ensure that the information contained in the website is complete and current. However, DHS does not warrant that the information in the website is indeed complete or correct and reserves the right to amend, delete and modify the information at any time without notice to the offerors.

20.800 Rules of Procurement

To facilitate the procurement process, various rules have been established as described in the following subsections.

20.810 *No Contingent Fees*

No offeror shall employ any company or person, other than a bona fide employee working solely for the offeror or company regularly employed as its marketing agent, to solicit or secure this contract, nor shall it pay or agree to pay any company or person, other than a bona fide employee working solely for the offeror or a company regularly employed by the offeror as its marketing agent, any fee commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award of a contract to perform the specifications of this RFP.

20.820 *Discussion with Applicants*

- A. Prior to Submittal Deadline:
Discussions may be conducted with potential Offerors to promote understanding of the purchasing agency's requirements
- B. After Proposal Submittal Deadline

Discussions may be conducted with Offerors whose proposals are determined to be reasonably susceptible of being selected for award, but proposals may be accepted without discussions, in accordance with §3-143-403, Hawaii Administrative Rules

20.830 *RFP Amendments*

DHS reserves the right to amend the RFP any time prior to the closing date for the final revised proposals.

20.840 *Costs of Preparing Proposal*

Any costs incurred by the offerors for the development and submittal of a proposal in response to this RFP are solely the responsibility of the offeror, whether or not any award results from this solicitation. The State of Hawaii shall provide no reimbursement for such costs.

20.850 *Provider Participation in Planning*

Provider participation in a state purchasing agency's efforts to plan for or to purchase health and human services prior to the state purchasing agency's release of an RFP, including the sharing of information on community needs, best practices, and providers' resources, shall not qualify providers from submitting proposals if conducted in accordance with HAR Sections 3-142-202 and 3-142-203.

20.860 *Disposition of Proposals*

All proposals become the property of the State of Hawaii. The successful proposal shall be incorporated into the resulting contract and shall be public record. The State of Hawaii shall have the right to use all ideas, or adaptations to those ideas, contained in any proposal received in response to this RFP. Selection or rejection of the proposal shall not affect this right. Written requests for an explanation of rejection shall be responded to in writing within five (5) working days of receipt.

Offerors who submit technical proposals which do not meet mandatory requirements or which do not meet all the threshold requirements during the technical evaluation phase, shall have their technical and business proposals returned. The business proposal shall be returned unopened.

20.870 *Rules for Withdrawal or Revision of Proposals*

A proposal may be withdrawn or revised at any time prior to, but not after, the deadline for receipt of proposals provided that a request in writing executed by an offeror or its duly authorized representative for the withdrawal or revision of such proposal is filed with DHS before the deadline for receipt of proposals. The withdrawal of a proposal shall not prejudice the right of an offeror to submit a new proposal.

20.880 *Independent Price Determination*

State law requires that a bid shall not be considered for award if the price in the bid was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other offeror or with any competitor.

An offeror shall include a certified statement in the proposal certifying that the bid was arrived at without any conflict of interest. Should a conflict of interest be detected at any time during the contract, the contract shall be null and void and the offeror shall assume all costs of this project until such time that a new offeror is selected.

20.900 **Confidential Information**

If an applicant believes any portion of a proposal contains information that should be withheld as confidential, the applicant shall request in writing nondisclosure of designated proprietary data to be confidential and provide justification to support confidentiality. Such data shall accompany the proposal, be clearly marked, and shall be readily separable from the proposal to facilitate eventual public inspection of the non-confidential sections of the proposal. **Note that price is not considered confidential and will not be withheld.**

20.910 *Confidentiality of Personal Information*

Act 10 relating to personal information was enacted in the 2008 special legislative session. As a result, the Attorney General's General Conditions of Form AG Form 103F, *Confidentiality of Personal Information*, has been amended to include Section 8 regarding protection of the use and disclosure of personal

information administered by the agencies and given to third parties.

21.100 Acceptance of Proposals

DHS reserves the right to reject any or all proposals received or to cancel this RFP according to the best interest of the State.

DHS also reserves the right to waive minor irregularities in proposals providing such action is in the best interest of the State.

Where DHS may waive minor irregularities, such waiver shall in no way modify the RFP requirements or excuse an offeror from full compliance with the RFP specifications and other contract requirements if the offeror is awarded the contract.

DHS also reserves the right to consider as acceptable only those proposals submitted in accordance with all technical requirements set forth in this RFP and which demonstrate an understanding of the requirements. Any proposal offering any other set of terms and conditions contradictory to those included in this RFP may be disqualified without further notice.

21.200 Submission of Proposals

Each qualified offeror may submit only one (1) proposal. More than one proposal shall not be accepted from any offeror. The Proposal Application Identification Form (Form SPO-H-200) shall be completed and submitted with the proposal (Appendix A).

Proposals shall be submitted in two parts: technical and business proposals. The format and content of each are specified in Sections 60 and 70 respectively.

The technical proposal shall be submitted in a separate envelope or box from the business proposal. Three (3) bound of which it includes one original, and one (1) electronic version on a CD in either pdf or Word 2003 or lower, and one (1) bound and one (1) electronic version on a CD of the business proposal shall be received by the Issuing Officer no later than 2:00 p.m. (H.S.T.) on the date set forth in Section 20.100. Proposals shall be mailed or delivered to:

Ms. Patricia Bazin
c/o Dona Jean Watanabe
Med-QUEST Division-Finance Office
1001 Kamokila Boulevard, Suite 317
Kapolei, HI 96707

All mail-in proposals shall be postmarked by the United States Postal System (USPS) and received by the DHS no later than the submittal deadline. All hand deliveries shall be received by DHS by the date specified in Section 20.100. Deliveries by private mail services, such as Fed Ex, shall be considered hand deliveries and shall be rejected if received after the Submittal Deadline. Dated USPS shipping labels are not considered postmarks. Proposals shall be rejected when:

- Postmarked after the designated date; or
- Postmarked by the designated date but not received within 10 days from the submittal deadline; or
- If hand delivered, received after the designated date and time.

The outside cover of the package containing the technical proposal copied shall be marked:

Hawaii DHS/RFP-MQD-2010-008
Ombudsman Services
Technical Proposal
(Name of Offeror)

The outside cover of the package containing the business proposal copies shall be marked:

Hawaii DHS/RFP-MQD-2010-008
Ombudsman Services
Business Proposal
(Name of Offeror)

21.300 Disqualification of Offerors

An offeror shall be disqualified and the proposal automatically rejected for any one or more of the following reasons:

- Proof of collusion among offerors, in which case all bids involved in the collusive action shall be rejected and any participant to such collusion shall be barred from future bidding until reinstated as a qualified offeror
- An offeror's lack of responsibility and cooperation as shown by past work or services
- An offeror's being in arrears on existing contracts with the State or having defaulted on previous contracts
- An offeror's lack of proper provider network and/or sufficient experience to perform the work contemplated, if required
- An offeror's lack of a proper license to cover the type of work contemplated, if required
- An offeror shows any noncompliance with applicable laws
- An offeror's delivery of proposal after the proposal due date
- An offeror's failure to pay, or satisfactorily settle, all bills overdue for labor and material on former contracts with the State at the time of issuance of this RFP
- An offeror's lack of financial stability and viability
- An offeror's consistently substandard performance related to meeting the MQD requirements from previous contracts

21.400 Irregular Proposals

Proposals shall be considered irregular and rejected for the following reasons including, but not limited to the following:

- If either the proposal letter or transmittal letter is unsigned by an offeror or does not include notarized evidence of

authority of the officer submitting the proposal to submit such proposal

- If the proposal shows any non-compliance with applicable law or contains any unauthorized additions or deletions, conditional bids, incomplete bids, or irregularities of any kind, which may tend to make the proposal incomplete, indefinite, or ambiguous as to its meaning
- If an offeror adds any provisions reserving the right to accept or reject an award, or enters into a contract pursuant to an award, or adds provisions contrary to those in the solicitation

21.500 Rejection of Proposals

The State reserves the right to consider as acceptable only those proposals submitted in accordance with all requirements set forth in this RFP and which demonstrate an understanding of the problems involved and comply with the service specifications. Any proposal offering any other set of terms and conditions contradictory to those included in this RFP may be rejected without further notice.

A proposal may be automatically rejected for any or more of the following reasons:

- Rejection for failure to cooperate or deal in good faith (HAR §3-141-201)
- Rejection for inadequate accounting system (HAR §3-141-202)
- Late Proposals (HAR §3-143-603)
- Inadequate response to request for proposals (HAR §3-143-609)
- Proposal not responsive (HAR §143-610(a)(1))
- Applicant not responsible (HAR §3-143-610(a)(2))

21.600 Multiple or Alternate Proposals

Multiple or alternate proposals shall not be accepted unless specifically provided for in Section 40 of this RFP. In the event alternate proposals are not accepted and an applicant submits alternate proposals, but clearly indicates a primary proposal, it shall be considered for award as though it were the only proposal submitted by the applicant.

21.700 Cancellation of RFP

The RFP may be canceled and any or all proposals may be rejected in whole or in part, when it is determined to be in the best interests of the State.

21.800 Opening of Proposals

Upon receipt of a proposal by the state purchasing agency at a designated location, proposals, modifications to proposals, and withdrawals of proposals shall be date-stamped and, when possible, time-stamped. All documents so received shall be held in a secure place by the state purchasing agency and not examined for evaluation purposes until the submittal deadline.

Procurement files shall be open to the public inspection after a contract has been awarded and executed by all parties.

21.900 Additional Materials and Documentation

Upon request from the state purchasing agency, each Offeror shall submit any additional materials and documentation reasonably required by the state purchasing agency in its evaluation of the proposal.

22.100 Final Revised Proposal

If requested, final revised proposals shall be submitted in the manner and by the date and time specified by the state purchasing agency. If a final revised proposal is not submitted, the previous submittal shall be construed as the Offerors best and final offer/proposal. The offeror shall submit only the section (s) of the proposal that are amended, along with the Proposal Application Identification Form (SPO-H-200). After final revised proposals are received, final evaluations will be conducted for an award.

22.200 Notice of Award

A statement of findings and decision shall be provided to all applicants by mail upon completion of the evaluation of competitive purchase of service proposals.

Any agreement arising out of this solicitation is subject to the approval of the Department of Attorney General as to form, and

to all further approvals, including the approval of the Governor as required by statute, regulations, rule, order, or other directive.

No work is to be undertaken by the awardee prior to the contract commencement date. The State of Hawaii is not liable for any costs incurred prior to the official starting date.

22.300 Protests

Any Offeror may file a protest against the awarding of the contract. The Notice of Protest form, SPO-H-801, is available on the SPO website: <http://hawaii.gov/spo/>. Only the following matters may be protested:

1. A state purchasing agency's failure to follow procedures established by Chapter 103F of the Hawaii Revised Statutes;
2. A state purchasing agency's failure to follow any rule established by Chapter 103F of the Hawaii Revised Statutes; and
3. A state purchasing agency's failure to follow any procedure, requirement, or evaluation criterion in a request for proposals issued by the state purchasing agency.

A Notice of Protest shall be postmarked by USPS or hand delivered to 1) the head of the state purchasing agency conducting the protested procurement, and 2) the procurement officer who is conducting the procurement (as indicated below) within five (5) working days of the postmark of the Notice of Findings and Decision sent to the protestor. Delivery services other than USPS shall be considered hand deliveries and considered submitted on the date of actual receipt by the State purchasing agency.

Head of Purchasing Agency	Procurement Officer
Name: Lillian B. Koller	Name: Kenneth S. Fink, MD
Title: Director of Human Services	Title: Administrator, Med-QUEST Division
Mailing Address: P.O. Box 339 Honolulu, HI 96809-0339	Mailing Address: P.O. Box 700190 Kapolei, HI 96709-0190
Business Address: 1390 Miller Street Honolulu, HI 96813	Business Address: 1001 Kamokila Blvd, Ste 317 Kapolei, HI 96707

Section 30 Background

30.100 Medical Assistance in Hawaii

MQD is the unit within the Department of Human Services (DHS) that administers the medical assistance programs. Medicaid, a federal and state partnership program created by Congress in 1965, provides medical assistance benefits to qualified uninsured and underinsured through the QUEST, QExA, QUEST-Net, and QUEST-ACE programs.

Together, Medicaid covers approximately 251,000 individuals (206,000 in QUEST and 42,000 in QExA). In addition to asset and income limits, the basic eligibility requirements for Medicaid include being 1) a U.S. citizen or qualified alien; 2) a Hawaii resident; and 3) not residing in a public institution such as prison or the State psychiatric hospital. Different eligibility categories such as pregnant women and children have different income thresholds and are not subject to an asset limit.

MQD also administers state-funded programs for pregnant immigrant women, immigrant women who meet requirements for the Breast and Cervical Cancer program and for immigrant children. Eligibility requirements are the same as for Medicaid, but there is no U.S. citizenship requirement. Eligible persons are placed either in the QUEST managed care plans or the QExA program. Federal dollars are not claimed for these eligibility groups.

30.200 Hawaii QUEST (QUEST)

QUEST is a statewide Medicaid demonstration project (Section 1115 waiver) that provides primary, acute and behavioral health services through competitive managed care delivery systems.

QUEST includes individuals who are eligible for medical assistance, but who are not aged, blind or disabled (ABD). Generally, these individuals include:

- Temporary Assistance for Needy Family (TANF) and TANF related programs
- Foster Care
- General Assistance (GA) Program

- Former State Health Insurance Program (SHIP)

QUEST incorporates separate plans for the provision of medical services, specialized behavioral health services, and certain transplants for children and adults.

30.300 QUEST Expanded Access (QExA)

The State's Medicaid QExA program provides medical assistance to eligible individuals 65 years or older and disabled of all ages under Title XIX of the Social Security Act. The QExA program is a state administered program, which receives federal funding for approximately 55% of its expenditures.

Hawaii's QExA covers all mandatory Medicaid groups as well as several optional eligibility groups. The QExA currently provides health services to approximately 42,000 individuals.

Effective February 1, 2009, most ABD clients were transitioned from the FFS program to a managed care delivery system through a statewide Medicaid demonstration project (Section 1115 waiver) providing primary, acute and long-term care services.

30.400 QUEST-Net

QUEST-Net is a program implemented on April 1, 1996, providing limited medical and behavioral health services to eligible clients. This program was developed primarily to serve as a safety net for persons who become ineligible for QUEST because their assets exceed the allowable retention limitations. Applicants with any type of medical coverage including Medicare, VA, or Champus, are not eligible for QUEST-Net.

Participants must meet basic eligibility criteria, have income below 300% of the federal poverty level (FPL), and not be eligible for employer-sponsored health coverage.

QUEST-Net children receive the same benefit package as QUEST children and the State reimburses the medical plan the QUEST rate for each QUEST-Net child. For purposes of QUEST-Net, children include any client up to the age of 21. Individuals 21 and over in QUEST-Net are subject to limited medical and behavioral health benefits and are not eligible for enrollment into

the BPMC (Behavioral Health Managed Care) plan, or other services such as case management, outreach services, and transportation.

30.500 QUEST-Adult Coverage Expansion (QUEST-ACE)

QUEST-ACE is a health coverage program for a gap group of adults, over the age of 19. QUEST-ACE serves adult clients 65 years or older or with a disability who are not eligible for QExA. QUEST-ACE clients have incomes up to 200% of the federal poverty level who are uninsured or unable to enroll in QUEST due to the enrollment cap and unable to enroll in QUEST-Net because they were not already QUEST.

Benefits mirror the limited QUEST-Net health package

30.600 Department of Human Services

MQD is the organizational unit within DHS that is responsible for the operation and administration of the medical assistance programs including QUEST, QUEST-Net, QUEST-ACE, and QExA programs. For purposes related to this RFP, the basic functions or responsibilities of MQD include:

- Developing and defining the medical, dental, and behavioral health benefits to be provided by the managed care plans
- Developing the rules, policies, regulations and procedures to be followed under QUEST, QExA, and QUEST-Net, and QUEST-Ace
- Negotiating and contracting with selected medical, behavioral health, and carve-out plans
- Determining initial and continued eligibility of clients
- Enrolling and disenrolling clients
- Monitoring the quality of services provided by the plans and its providers
- Reviewing and analyzing utilization of services provided by the plans and its providers

- Handling unresolved client grievances with the plans and providers
- Billing and collecting client premium share
- Monitoring the financial status of all medical assistance programs administered by the Department
- Analyzing the effectiveness of QUEST, QExA, QUEST-Net, and QUEST-ACE in meeting its objectives
- Managing the Hawaii Prepaid Medical Management Information System (HPMMIS) and the Premium Share Billing System
- Providing client information to the health plans
- Providing monthly capitation payments to health plans
- Managing the fiscal agent functions

Section 40 Scope of Services

40.100 Introduction

The purpose of this contract is to provide an alternative resource for QExA clients to access to assist them in resolving issues or concerns between themselves and the medical, dental, or behavioral health plans of the QExA Program informally and up through a QExA Health plan's grievance/appeals process. QExA clients are more likely to have extensive or complex health care needs or have more difficulty understanding how the managed care system works and how to access services. Ombudsman services will be available to assist and educate QExA enrollees about managed care, how to maneuver through a managed care system to access needed health services, and most importantly how to advocate for themselves.

Ombudsman services, available through this RFP, is not a replacement for the required grievance processes that each participating Hawaii QExA Health plan must have in place, nor replace the right of a client to request a Fair Hearing through the Department of Human Services' Administrative Appeals Office. QExA clients still may exercise their rights to file a grievance with the health plan, MQD or request for a Fair Hearing at any time. The party receiving this award shall be referred to as the QExA Ombudsman Office hereafter. The term QExA Ombudsman Office shall not be confused with the State Office of the Ombudsman. The role of the QExA Ombudsman Office is to impartially determine the issues and areas of concerns from the QExA client and the appropriate plan representatives. Once the issue is defined the QExA Ombudsman Office's role is to advocate for QExA clients and represent the interests of the QExA clients to find the best resolution for the QExA client.

The QExA Ombudsman Office shall strive to resolve an issue/concern related to access to care, quality of care or limitations to care at the lowest level of appropriate intervention possible. If requested by the QExA client, the QExA Ombudsman Office shall represent and advocate for the enrollee to the extent possible as allowable within QExA program rules, federal and state statutes, and services covered under Hawaii QExA contracts.

The QExA Ombudsman Office is responsible for identifying appropriate referral sources for enrollees within and outside of the QExA plans, compiling and preparing printed materials on frequently asked questions, identifying and resolving barriers QExA clients encounter trying to access QExA services and Ombudsman services, determining how to empower and support QExA enrollees to advocate for themselves, developing working relationships with representatives identified by the QExA plans to resolve issues/concerns of QExA clients, referring clients to appropriate community resources or agencies for assistance in pursuing an issue/concern beyond a plan's grievance/appeals process, and providing reports specified in Section 40.400 of this RFP.

The lowest appropriate level of intervention encompasses providing client assistance such as providing information over the telephone, clarifying or answering questions clients have, talking informally to the plan representatives to clarify issues/concerns, clearing up misunderstandings either party may have, advocating on behalf of a client on issues related to accessing care, quality of care or limitations to care.

The QExA Ombudsman Office shall have in place a system to follow-up with a QExA client 2 weeks after initial contact is made with the QExA client by the QExA Ombudsman Office. The QExA Ombudsman Office shall find out if clients were successful and/or satisfied with their results. If the client was unsuccessful or dissatisfied with the results the QExA Ombudsman Office shall assist or represent a client in informal and formal plan grievance/appeals processes if requested by the client.

Offerors who, directly or through subcontracting arrangements, receive payments from any of the participating Hawaii QUEST or QExA health plans are prohibited from submitting a proposal for this RFP. The offeror shall provide a statement that, to their knowledge, no one from their organization is receiving payments from any of the participating Hawaii QUEST or QExA health plans. The organization to be contracted with for the provision of Ombudsman services shall not be affiliated with any of the health care plans contracted by DHS for the Hawaii QUEST or QExA Program.

40.200 Target Population

Current Medicaid clients meeting the financial and eligibility requirements of the QExA program such as Aged, Blind or Disabled (ABD) individuals living in the community, ABD individuals residing in long term care institutions, ABD individuals needing community based services, or ABD individuals meeting the criteria in one of the not specified qualified groups

There are approximately 42,000 individuals on Oahu, Maui, Kauai, Lanai, Molokai, and Hawaii. A breakdown of the ABD population statewide can be found in Appendix J.

40.300 Scope of Work

The offeror shall:

1. Address and perform the tasks set forth in this RFP. It is also understood that this listing of tasks and activities is not all inclusive and that other elements of work may be addressed within the offeror's proposal, if deemed appropriate.
2. Be prepared to accept concerns/complaints statewide, initiated at the request of a QExA client enrolled in a participating QExA health plan or his/her representative.
3. Provide a detailed description of the offeror's plan to have services available from the first day the resulting contract is to begin. The description shall include:
 - a timeline which specifies target dates and details the major tasks/steps (hiring of staff, staff training, development/printing of written materials on Ombudsman services)
4. The QExA Ombudsman Office shall at the minimum have one ombudsman program coordinator who shall devote at least 50% of his/her time to managing the program.
5. At each contact or encounter, the Ombudsman shall confirm the identity, address, and telephone number for each member requesting assistance. At the initial contact,

the Ombudsman shall utilize a web-based portal supplied by the DHS in order to confirm that the member's self-reported contact, eligibility, third-party liability (TPL), and health plan enrollment information is accurate. If during any conversation the member indicates that his or her address, telephone, or TPL information has recently changed, then the Ombudsman shall:

- Clarify with the member that he or she must contact the MQD Customer Service Branch with the updated contact information in order for MQD and the health plan to have the member's updated contact information; and
- Record the updated contact information and forward this within one (1) business day to the MQD Customer Service Branch using the form designated by DHS.

6. The Ombudsman shall confirm that an individual claiming to be an authorized representative actually has the permission of the member. To the extent possible, the Ombudsman shall confirm with the member (in private, without the presence and influence of any other parties) that the individual in question is his or her authorized representative before proceeding; the Ombudsman should note this fact in the DHS prescribed paper form. If the member is unavailable, the Ombudsman shall confirm with either a court-order or authorized DHS form (DHS 1123 Authorization of Release form) the identity of a bona fide authorized representative.
7. The Ombudsman shall provide free oral translation and interpretation services in all non-English languages to Limited English Proficient (LEP) members. To this end, the Ombudsman shall secure real-time access to a telephonic translation service. In addition, the Ombudsman shall have TDD (Telephone Device for the Deaf) or TTY (Teletype) access in order to serve the hearing impaired population.
8. The Ombudsman shall respond within two (2) business days of receiving a call, e-mail or other contact regarding a member. Additionally, the Ombudsman shall conduct a follow-up contact within two (2) weeks of the "case closure" in order to ensure that the member's concerns are fully resolved.

The Ombudsman shall generally provide assistance to members in the order in which calls, e-mails or other contact for assistance are received. However, the Ombudsman shall establish and have in place a system or method for prioritizing urgent/emergent issues or concerns.

9. If the Ombudsman determines that a member is at imminent risk of harm and that efforts to resolve the situation are not working, the Ombudsman shall immediately notify both the member's health plan and MQD, Clinical Standards Office. As appropriate, the Ombudsman shall notify appropriate local law enforcement and other first-responder personnel and/or direct the member to go to the nearest emergency room.
10. At the request of a member, the Ombudsman shall provide assistance to the member with filing a formal grievance, as defined in Appendix K of this Agreement, within the respective health plan's grievance system. If the Ombudsman files the grievance on behalf of the member, it shall ensure that it files the grievance in a timely and prompt manner.

The Ombudsman shall follow up with the member and the health plan to ensure that, consistent with QExA RFP § 50.820, the health plan acknowledges the complaint within five (5) days and provides a written disposition within thirty (30) days of the initial expression of dissatisfaction. The Ombudsman shall report directly any concerns about the timeliness of the health plan's review and response to MQD.

If requested by the member, the Ombudsman may also help to prepare a formal grievance for MQD review as described in QExA RFP § 50.825 but only after the member has exhausted the health plan's internal grievance system processes. With the submission of the grievance to MQD for review, the Ombudsman role is complete and its involvement in the matter terminates.

11. At the request of a member, the Ombudsman shall provide assistance to the member to resolve appeals as quickly as possible. Specifically, the Ombudsman shall use telephone contacts and conference calls to obtain immediate relief and resolution. After exhausting all informal methods and at the request of the member, the Ombudsman shall help a member file an appeal under the respective health plan's internal grievance and appeals process. The Ombudsman shall ensure that, if it files the appeal on behalf of the member, it does so in a timely and prompt manner. At the member's request and with the health plan's consent, the Ombudsman may participate in any proceeding convened by the health plan to adjudicate the appeal.

The Ombudsman shall follow-up with the member and the health plan to ensure that, consistent with QExA RFP § 50.830, the health plan acknowledges the written appeal within five (5) business days and provides a written disposition with thirty (30) calendar days of receiving it. The Ombudsman shall report any concerns about the timeliness of the health plan's review directly to MQD.

In the event that a health plan denies a member's appeal, the Ombudsman role is complete and its involvement in the matter terminates. The Ombudsman may not directly assist the member with the DHS Administrative Hearings process. However, the Ombudsman may provide the member with a copy of his or her rights and responsibilities provided by the DHS. The Ombudsman may also refer the member to a legal services provider if appropriate.

12. In the event that the member requests assistance in filing an expedited appeal, the Ombudsman shall provide such assistance and ensure that the appeal is filed immediately with the health plan. At the member's request and with the health plan's consent, the Ombudsman may participate in any proceeding convened by the health plan to adjudicate the appeal.

The Ombudsman shall follow up with the member and health plan to ensure that, consistent with QExA RFP § 50.835, the health plan resolves the appeal and provides written notice to the affected parties as expeditiously as the member's health condition requires, but no more than

three (3) business days from the time the health plan received the appeal (unless the health plan extends the timeframe in a manner allowed under the QExA RFP). The Ombudsman shall report any concerns about the timeliness of the health plan's review directly to MQD.

With the health plan's denial of the member's appeal, the Ombudsman role is complete and its involvement in the matter terminates. The Ombudsman may not directly assist the member with the DHS Administrative Hearings process. However, the Ombudsman may provide the member a copy of his or her rights and responsibilities.

13. If a member requests the participation of the Ombudsman on the team of decision-makers that develop his or her care plan, the Ombudsman shall participate on the team in the capacity requested by the member.
14. If the Ombudsman encounters a question regarding a covered service that is not included within the QExA capitation rates and therefore not covered by the QExA health plan, then it shall refer the matter to the MQD Health Care Services Branch (HCSB) for resolution. Examples of services not covered by the QExA plan are services provided in Intermediate Care Facilities/Mental Retardation (ICF-MRs), services provided to individuals enrolled in the Developmentally Disabled/Mentally Retarded (DD/MR waiver), transplants covered by the State of Hawaii Organ and Transplant (SHOTT) program, etc.

If the Ombudsman encounters a general question regarding Medicare, Medicare Advantage, or Medicare Part D, then it shall refer the matter to the MQD Customer Service Branch.

15. The Ombudsman shall refer all disenrollment requests to the MQD Customer Service Branch.

The Ombudsman shall refer any request for an exemption from mandatory enrollment in a QExA health plan to the MQD Customer Service Branch.

The Ombudsman shall be able to refer non-QExA inquiries to the appropriate entities. Specifically, the Ombudsman shall be able to identify and correctly refer inquiries regarding the following issues:

- QExA enrollment counseling and health plan selection, enrollment and disenrollment questions;
- Medicaid eligibility (QUEST, QExA, QUEST-Net, Quest-ACE);
- Medicare Special Savings Program questions (e.g., premium deductions and cost-sharing issues), particularly as they related to deductions from Social Security payments;
- Medicare (including Parts A, B, C, and D), including both Medicare fee-for-service and Medicare Advantage plans and prescription drug plans;
- Social Security payments (particularly the Social Security retirement, disability, and Supplemental Security Income (SSI) programs); and
- Food Stamps and cash assistance questions.

16. The Ombudsman shall have a dedicated, toll-free intake telephone number. The telephone number shall be staffed for at least eight (8) hours per day, Monday through Friday except for State holidays. In addition, the Ombudsman shall have a voicemail account for a caller to leave a message twenty-four (24) hours per day. The introduction to the greeting shall offer callers the option to hear the remainder of the greeting in Tagalog, Korean, Ilocano, and Mandarin Chinese. The rest of the greeting (in each language) shall identify the office and explain that the caller will receive a return call within one (1) business day.

The Ombudsman shall monitor messages no less than twice per day during each business day. When responding to calls, the staff of the Ombudsman shall assure that all outbound calls protect the confidentiality of the telephone conversations.

The Ombudsman shall have high-speed Internet access and secure email in order to communicate with the members, the health plans, MQD, and other parties.

17. The Ombudsman shall assure that no Ombudsman staff shall serve as an advocate for a QExA member on any issue/concern in which they would have any financial or personal gain or interest, or any other conflict of interest, except by written consent of both parties.
18. The Ombudsman shall maintain strict confidentiality of information and issues obtained when assisting a QExA member and shall maintain strict confidentiality of information and the status of a member's issue/concern. This information shall be made known to all parties requesting Ombudsman services in writing ahead of time.

40.400 Reports

The offeror shall prepare and submit reports specified in this Section to the DHS as required. The reports include the following:

1. Real Time Reports

Using DHS-approved forms, the Ombudsman shall report updated contact information for members to the MQD Customer Service Branch within one (1) business day.

The Ombudsman shall submit by the seventh (7th) business day of each month the following reports with data and information for the preceding month. The Ombudsman shall submit templates for these reports to MQD for review and prior written approval no later than July 15, 2010.

2. Summary Reports

The Ombudsman shall provide to MQD a summary report of activity for the respective reporting period as described below. The summary report narrative, if any, shall not exceed 300 words. The summary report shall include information on:

The Ombudsman shall provide to MQD a summary report of activity for the respective reporting period as described below. The summary report narrative, if any, shall not exceed 300 words. The summary report shall include information on:

- Administrative activities provided during the prior period, including at a minimum:
 - > the number of calls answered in-person;
 - > the number of messages left on the voice mail;
 - > the average length of time taken to return calls;
 - > the average call length;
 - > the number of e-mail queries; and
 - > the average time taken to respond to e-mail queries/
- Number and percent of calls received that address the following types of concerns:
 - > General Information, Referrals, and Navigation
 - > Issue Identification
 - > Complaints

Note: DHS will provide a specific format relating to sub-issues under these general topics upon award of contract.
- Administrative activities planned over the coming period including information on staffing or other technical adjustments based on prior month activity; and
- Issues (if any) to be addressed by MQD.

3. Member Specific Information Report

The Ombudsman shall submit a password-protected Excel spreadsheet file that lists each member for which the Ombudsman received a call, e-mail or other contact during the reporting period. The file shall also include a separate worksheet with any updated information on cases that the Ombudsman reported in past quarters. These reports shall contain the following information for each case:

- Date of initial call, e-mail or contact;
- Medicaid ID number for the member for which the Ombudsman received a call or other contact;
- Member's last name;
- Island on which member resides;
- Member's health plan (defined as the health plan at the beginning of the call);
- Type(s) of assistance provided (i.e., filing grievance, filing appeal, filing expedited appeal, other);

- Current disposition (i.e., resolved in member's favor, resolved against member, pending)
 - Date of final disposition;
 - Type of service (as defined by MQD, e.g. pharmacy, home health) involved;
 - Type of provider (as defined by MQD, e.g. primary care provider, specialist) involved, if applicable; and
 - Narrative summary of issues (no more than 100 words).
4. Ad Hoc Reports as requested by DHS.

The DHS reserves the right to request a report or reports not listed above. Any such request shall be submitted in writing.

40.500 Data Processing Capabilities

The offeror system shall collect, maintain, and report the information as required in the RFP by island (East & West Hawaii for the island of Hawaii) and on a statewide basis.

Section 50 Terms and Conditions

50.100 General

This RFP, any amendments, appendices, and an offeror's proposal submitted in response to this RFP form an integral part of the contract between an offeror and DHS. In exchange for payment from DHS, the offeror agrees to provide all services as described in this RFP. The offeror shall perform all of the services and shall develop, produce and deliver to DHS all of the requirements described in this RFP. DHS shall make payment as described in this RFP.

In the event of a conflict between the language of the contract, and applicable statutes and regulations, the latter shall prevail. In the event of a conflict among the contract documents, the order of precedence shall be as follows: (1) Agreement (form AG Form 103F 1-Comp (10/08)) including all general conditions, special conditions, attachments, and addenda; (2) the RFP, including all attachments and addenda; and (3) offeror's proposal. In the event of a conflict between the General Conditions and the Special conditions, the Special Conditions shall control. The sections of the rules and regulations are amended for MQD. No changes shall be made to this RFP due to changes in the section numbers. The documents in the website shall be changed as needed. The availability and extent of the materials in the website shall have no effect on the requirements stated in this RFP.

The contractor shall comply with all applicable laws, ordinances, codes, rules and regulations of the federal, state and local governments, which in any way affect its performance under the contract. The standard State general terms and conditions found in Appendix C shall become part of the contract between the Contractor and the State.

The contractor shall pay all taxes lawfully imposed upon it with respect to the contract or any product delivered in accordance herewith. DHS makes no representations whatsoever as to the liability or exemption from liability of a contractor to any tax imposed by any governmental entity.

The contract shall be executed by the Hawaii Department of Human Services in accordance with Chapter 103F, HRS.

The head of the purchasing agency (which includes the designee of the head of the purchasing agency), shall coordinate the services to be provided by the Contractor in order to complete the performance required in this RFP. The Contractor shall maintain communications with the head of the purchasing agency at all stages of the Contractor's work, and submit to the head of the purchasing agency for resolution any questions which may arise as to the performance of the contract.

50.200 Term of the Contract

The multi-term contract shall begin on July 1, 2010, and shall continue through June 30, 2011.

Unless terminated, DHS shall have the option, without the necessity of re-bidding, to extend the contract with the contractor for two (2) fiscal years beyond June 30, 2011. Any renewal or extension of the contract will be subject to appropriation and availability of funds.

The contractor acknowledges that other unanticipated uncertainties may arise that may require an increase or decrease in the original scope of services from the Contractor awarded this contract. In the event that increase or decrease of services may be required, the Contractor agrees to enter into a supplemental agreement upon request by the State for the additional work. The supplemental agreement may also include an extension of the period of performance and a respective increase or decrease in the compensation.

50.210 *Availability of Funds*

The award of a contract and any allowed renewal or extension thereof, is subject to allotments made by the Director of Finance, State of Hawaii, pursuant to Chapter 37, HRS, and subject to the availability of State and/or Federal funds.

50.300 General and Special Conditions of Contract

The general conditions found in Appendix C will become part of the contract between the Contractor and the State. Special

conditions may also be imposed contractually by the state purchasing agency, as deemed necessary.

50.400 Cost Principles

In order to promote uniform purchasing practices among state purchasing agencies procuring health and human services under HRS Chapter 103F, state purchasing agencies will utilize standard cost principles outlined in Form SPO-H-201, found in Appendix H. Nothing in this section shall be construed to create an exemption from any cost principle arising under federal law.

50.500 Inspection of Work Performed

DHS, CMS, the State Auditor of Hawaii, the U.S. Department of Health and Human Services (DHHS), the General Accounting Office (GAO), the Comptroller General of the United States, the Office of the Inspector General (OIG), Medicaid Fraud Control Unit of the Attorney General or their authorized representatives shall, during normal business hours, have the right to enter into the premises of the contractor and/or all subcontractors and providers, or such other places where duties under the contract are being performed, to inspect, monitor, or otherwise evaluate the work being performed. All inspections and evaluations shall be performed in such a manner as to not unduly delay work.

The Contractor, subcontractor and providers shall provide information and data, upon demand, to the DHS, any of the above named agencies, and their authorized representatives. The requested information or data shall be provided to the requesting agency(s) within a reasonable timeframe that will be determined by the DHS.

50.600 Subcontractor/Provider Agreements

The Contractor may negotiate and enter into contracts or agreements with providers and other subcontractors (with prior written consent of the State) to the benefit of the Contractor and the State as long as the providers and subcontractors meet all established criteria and provide the services in a manner consistent with the minimum standards specified. All such agreements shall be in writing and shall specify the activities and responsibilities delegated to the subcontractor. The contracts must also include provisions for revoking delegation or imposing other sanctions if the subcontractor's performance is inadequate.

Certain subcontracts, including but not limited to Quality Assurance activities, must be approved by DHS prior to implementation. DHS reserves the right to inspect all subcontract and provider agreements at any time during the contract period. Any subcontract may be subject to the DHS's prior review and approval. The contractor's subcontractor shall submit to the Contractor a tax clearance certificate from the Director of the Department of Taxation, State of Hawaii, showing that all delinquent taxes, if any, levied or accrued under State law against the subcontractor/provider have been paid.

No subcontract or agreement that a Contractor enters into with respect to the performance under this contract shall in any way relieve a Contractor of any responsibility for any performance required of it by this contract. The Contractor shall provide DHS immediate notice in writing by registered or certified mail of any action or suit filed against it by any subcontractor or provider, and prompt notice of any claim made against any Contractor may result in litigation related in any way to the contract with the State of Hawaii. The Contractor shall designate itself as the sole point of recovery for any subcontractor or provider.

The Contractor shall notify DHS at least fifteen days prior to adding or deleting provider or subcontractor agreements or making any change to any provider or subcontractor agreements which may materially affect the Contractor's ability to fulfill the terms of this contract.

All agreements or contracts with the subcontractors or providers shall be finalized and fully executed within 30 days of the contract award. DHS reserves the right to review any subcontractor or provider contracts or agreements prior to the notification of award of the contract.

All subcontracts shall require that the subcontractors/providers agree to comply with the confidentiality requirements imposed by this RFP, to the extent subcontractors or providers render services or perform functions that make such provisions applicable to such agreements.

50.700 Applicability of Hawaii Revised Statutes

50.710 *Wages, Hours and Working Conditions of Employees Providing Services*

Before an Offeror enters into a contract in excess of \$25,000, the Offeror shall certify that it complies with section 103-55, HRS, Wages, hours and working conditions of employees of Contractors performing services. The Contractor shall complete and submit the Wage Certification as provided in Appendix G pursuant to Section 103-55, HRS.

50.720 *Standards of Conduct*

The contractor shall execute the Provider's Standards of Conduct Declaration, a copy of which is found in Appendix E and which shall become part of the contract between the contractor and the State.

50.730 *Campaign Contribution by State and County Contractors*

Contractors are hereby notified of the applicability of HRS, § 11-205.5, which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the Contractors are paid with funds appropriated by a legislative body. For more information, FAQs are available at the Campaign Spending Commission webpage. See www.hawaii.gov/campaign

50.800 Confidentiality of Information

The Contractor understands that the use and disclosure of information concerning applicants, enrollees or members is restricted to purposes directly connected with the administration of the Hawaii Medicaid program, and agrees to guard the confidentiality of an applicant's, enrollee's or member's information as required by law. The Contractor shall not disclose confidential information to any individual or entity except in compliance with the following:

- 42 CFR Part 431, Subpart F;
- The Administrative Simplification provisions of HIPAA and the regulations promulgated thereunder, including but not limited

to the Security and Privacy requirements set forth in 45 CFR Parts 160, 162 and 164, (if applicable);

- HRS Section 346-10; and
- All other applicable federal and State statutes and administrative rules, including but not limited to:
 - HRS § 325-101 relating to persons with HIV/AIDS;
 - HRS § 334-5 relating to persons receiving mental health services;
 - HRS § 577A relating to emergency and family planning services for minor females;
 - 42 CFR Part 2 relating to persons receiving substance abuse services.

Access to member identifying information shall be limited by the Contractor to persons or agencies that require the information in order to perform their duties in accordance with this contract, including the DHHS, the DHS and other individuals or entities as may be required by the DHS. (See 42 CFR § 431.300 et seq. and 45 CFR Parts 160 and 164.)

Any other party shall be granted access to confidential information only after complying with the requirements of State and Federal laws, including HIPAA, and regulations pertaining to such access. The Contractor is responsible for knowing and understanding the confidentiality laws listed above as well as any other applicable laws.

The Contractor is a "business associate" of the DHS, as that term is defined under the HIPAA regulations, 45 CFR §160.103. Therefore, Contractor agrees to comply with the terms of the Business Associate Agreement found in Appendix D.

The Contractor is cautioned that State and Federal Medicaid rules, and some other State and Federal statutes and rules, including but not limited to those listed above, are often more stringent than the HIPAA regulations. Moreover, for purposes of this contract, the Contractor agrees that the confidentiality provisions contained in HAR Chapter 17-1702 shall apply to the Contractor to the same extent as they apply to MQD.

The Contractor shall implement a secure electronic mail (email) encryption solution to ensure confidentiality, integrity, and authenticity of email communications that contain information relating to members.

50.900 Use of Funds

The contractor shall not use any public funds for purposes of entertainment perquisites and shall comply with any and all conditions applicable to the public funds to be paid under this contract, including those provisions of appropriate acts of the Legislature or by administrative rules adopted pursuant to law.

51.100 Liquidated Damages

DHS acknowledges that in the event of breach of this contract, it would be difficult to measure damages. Therefore, in the event of any breach of the terms of the contract by the Contractor, liquidated damages shall be assessed against the Contractor in an amount equal to the costs of obtaining alternative services for the members. The damages shall include the difference in the administrative rates paid to the Contractor and the rates paid to a replacement contractor.

Notwithstanding the above, a Contractor shall not be relieved of liability to the State for any damages sustained by the State due to the Contractor's breach of the contract.

DHS may withhold from payments to a Contractor, amounts for liquidated damages until such damages are paid in full.

51.200 Monthly Invoice

The Contractor shall submit an original and one copy of the monthly invoice for reimbursements accompanied by the Monthly Report to the following address:

Department of Human Services
Med-QUEST Division/Finance Office
1001 Kamokila Boulevard, Suite 317
Kapolei, Hawaii 96707

51.300 Acceptance

The Contractor shall comply with all of the requirements of the contract.

51.400 Disputes

Any dispute concerning a question of fact arising under the contract which is not disposed of by agreement shall be decided by the Director of DHS or his/her duly authorized representative who shall reduce his/her decision to writing and mail or otherwise furnish a copy to the Contractor within ninety (90) days after written request for a final decision by certified mail, return receipt requested. The decision shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, or capricious or arbitrary, or so grossly erroneous as necessarily to imply bad faith. In connection with any dispute proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of his/her dispute. The contractor shall proceed diligently with the performance of the contract in accordance with the disputed decision pending final resolution by a circuit court of this State.

Any legal proceedings against the State of Hawaii regarding this RFP or any resultant contract shall be brought in a court of competent jurisdiction in the City and County of Honolulu, State of Hawaii.

51.500 Warranty of Fiscal Integrity

The Contractor warrants that it is of sufficient financial solvency to assure DHS of its ability to perform the requirements of this

contract. The Contractor shall provide sufficient financial data and information to prove financial solvency.

51.600 Full Disclosure

An Offeror warrants that it has fully disclosed all business relationships, joint ventures, subsidiaries, holding companies, or any other related entity in its proposal and that any new relationships shall be brought to the attention of DHS as soon as such a relationship is consummated. The terms and conditions of CMS require full disclosure on the part of all contracting Contractors and providers.

An Offeror shall not, without DHS' prior approval, lend money or extend credit to any related party. A contractor shall fully disclose such proposed transactions and submit a formal written request for review and approval.

An Offeror shall include such provisions in any contract or agreement made with subcontractors or providers.

An Offeror shall complete and provide all information required in the Disclosure Statement in Appendix G and include the forms in the Technical Proposal. The Offeror shall ensure that each form is completed and that full disclosure is made

51.610 *Litigation*

The Offeror shall disclose any pending litigation to which they are a party, including the disclosure of any outstanding judgment. If applicable, please explain.

51.700 Payment to Subcontractors and Providers

A contractor shall be responsible for paying its subcontractors and providers in a timely and accurate manner for benefits provided to clients. In no event shall the subcontractors and providers look directly to the State for payment. The State shall bear no liability for a contractor's failure or refusal to pay valid claims of subcontractors or providers. A contractor shall indemnify and hold the State harmless from any and all liability arising from such claims and shall bear all costs in defense of any action over such liability, including attorney's fees.

51.800 Force Majeure

If an contractor is prevented from performing any of its obligations hereunder in whole or in part as a result of major epidemic, act of God, war, civil disturbance, court order or any other cause beyond its control, the contractor shall make a good faith effort to perform such obligations through its then-existing facilities and personnel; and such non-performance shall not be grounds for termination for default.

Neither party to this contract shall be responsible for delays or failures in performance resulting from acts beyond the control of such party.

Nothing in this section shall be construed to prevent DHS from terminating this contract for reasons other than default during the period of events set forth above, or for default if such default occurred prior to such event.

51.900 Prohibition of Gratuities

Neither a contractor nor any person, firm or corporation employed by a contractor in the performance of this contract shall offer or give, directly or indirectly to any employee or agent of the State of Hawaii, any gift, money or anything of value, or any promise, obligation, or contract for future reward or compensation at any time during the term of this contract.

52.100 Authority

Each party has full power and authority to enter into and perform this contract, and the person signing this contract on behalf of each party certifies that such person has been properly authorized and empowered to enter into this contract. Each party further acknowledges that it has read this contract, understands it, and agrees to be bound by it.

Section 60 Technical Proposal

60.100 Introduction

The following sections describe the required content and format for the technical proposal. These sections are designed to ensure submission of information essential to understanding and evaluating the proposal. There is no intent to limit the content of the proposal, which may include any additional information deemed pertinent.

The technical proposal shall include the following sections:

- Proposal Letter (Appendix F)
- Transmittal letter
- Executive Summary
- Company background and experience
- Company Capabilities
- Organization and staffing
- Financial Statements
- Data processing capabilities
- Proposal Application form (Appendix A)
- Standards of Conduct (Appendix E)
- Disclosure Statement (Appendix G)
- Federal and State tax clearance certificates

60.200 Proposal Letter

The proposal letter (refer to Appendix F) shall be signed by an individual authorized to legally bind an Offeror and be affixed with a corporate seal. Please provide a Corporate Resolution or a certificate of authority to sign on behalf of the company.

60.300 Transmittal Letter

The transmittal letter shall be on official business letterhead and shall be signed by an individual authorized to legally bind the offeror. It shall include:

- A statement indicating that the offeror is a corporation or other legal entity. All subcontractors shall be identified and a statement included indicating the percentage of work to be performed by the prime offeror and each

subcontractor, as measured by percentage of total contract price. If subcontractors will not be used for this contract, a statement to this effect shall be included

- A statement that the offeror is/will be registered to do business in Hawaii and has or will obtain a State of Hawaii General Excise Tax License by the start of work. Provide the Hawaii Excise Tax number (if applicable)
- A statement identifying all amendments and addenda to this RFP issued by the issuing office and received by the offeror. If no amendments or addenda have been received, a statement to that effect should be included
- A statement of affirmative action that the offeror does not discriminate in its employment practices with regard to race, color, religion, creed, age, sex, national origin or mental or physical handicap, except as provided by law
- A statement that neither cost nor pricing is included in this letter or the technical proposal
- A statement that no attempt has been made or will be made by the offeror to induce any other party to submit or refrain from submitting a proposal
- A statement that the person signing this proposal certifies that he or she is the person in the offeror's organization responsible for, or authorized to make, decisions as to the prices quoted, that the offer is firm and binding, and that he or she has not participated and will not participate in any action contrary to the above conditions
- A statement that the offeror has read, understands and agrees to all provisions of this RFP
- A statement that it is understood that if awarded the contract, the offeror's organization will deliver the goods and services meeting or exceeding the specifications in the RFP and amendments
- A statement that the organization to be contracted with for the provision of Ombudsman services shall not be affiliated with any of the medical, dental, or behavioral health care

plans contracted by DHS for the Hawaii QUEST and QExA Programs.

60.400 Executive Summary

The executive summary should provide DHS with a broad understanding of the entire proposal. The executive summary shall clearly and concisely condense and highlight the contents of the technical proposal.

60.500 Company Background and Experience

The company background and experience section shall include for an offeror and each subcontractor (if any): details of the background of the company and its size and resources, and details of company experience relevant to this RFP.

60.510 Background of the Company

A description of the history of the company and contractor including:

- A general description of the primary business of your organization and its client base
- A brief history and current company ownership including the ultimate parent organization and major shareholders/principals. Include date incorporated or formed and corporate domicile. An out-of-state Contractor must become duly qualified to do business in the State of Hawaii before a contract can be executed
- Ownership of the company, including the officers of the Corporation, and the names and address of its registered agent
- Home office location and all other offices (by city and state)
- Location of office from which any contract would be administered
- Name, address and telephone number of the Offeror's point of contact for a contract resulting from this RFP
- Number of employees both locally and nationally
- The size of organization in assets, revenue and people
- The areas of specialization

60.520 *Company Experience*

The details of company experience including subcontractor experience, relevant to the proposal shall cover and include but not limited to:

- experience in ombudsman or advocacy services
- experience working with the QExA population in any health care field or health-related field
- experience in working the Hawaii Medicaid population
- Hawaii Medicaid experience

60.600 **Company Capabilities**

The company shall have the capabilities to meet the specifications as outlined in the RFP. The following questions will provide the evaluators with an understanding of the abilities of the company.

- Describe the philosophy of your company on resolution of complaints/grievances of Medicaid clients
- Describe the quality measures that your company uses to assure contract expectations are addressed

60.700 **Organization and Staffing**

The organization and staffing section shall include organization charts of proposed personnel and resumes of all management, supervisory and key personnel. The information should provide the State with a clear understanding of the organization, functions of key personnel and on-site personnel during start-up and on-going operations.

The Offeror shall provide an estimate of the proposed number of staff, hours and resources to be engaged to complete the contracted activities.

60.710 *Organization Charts*

The organization charts shall show:

- Organization chart which shows the structure of the project team and identifies the proposed project personnel
- Relationships of an offeror to related entities

- All proposed key personnel, including an indication of their major areas of responsibility and position within the organization
- Geographic location of the contractor's personnel
- Proposed involvement of MQD personnel
- Estimates of man hours for each individual, including a description of major areas of responsibility for each individual

60.720 *Staffing*

The resumes of key personnel proposed shall include, if applicable:

- Experience with the Hawaii Medicaid program
- Experience in managed care systems
- Experience working with Hawaii Medicaid clients
- Length of time with a contractor or related organization
- Previous relevant experiences
- Relevant education and training
- Names, position titles and phone numbers of references who can provide information on the individuals' experience and competence
- Other relevant experience

Resumes should be provided, at a minimum, for the Administration/Program Director, all supervisory personnel, and financial officer. An offeror shall identify an individual within the organization who will be the key contact person for MQD. The resume for this individual shall be included with any other relevant resumes.

60.800 **Financial Status**

The financial status of an offeror and related entities shall be reviewed in order to determine the financial solvency of the organization. Quality care cannot be provided without adequate resources.

60.810 *Financial Statements*

Financial statements for the applicable legal entity or each partner if a joint venture shall be provided for each of the last two years, including at a minimum:

- Balance Sheets
- Statements of Income
- Federal Income Tax returns

If an offeror seeks confidentiality on a part of a submission, each page of the section of that submission which is sought to be protected must be marked as "Proprietary" and an explanation of how substantial competitive harm would occur if that information was released upon request. If the explanation is sufficient, then, to the extent permitted by the exemptions in Section 92F-13, HRS, 45 CFR Part 5, Office of Information Practices, or a Court, the affected section may be deemed confidential. Blanket labeling of the entire document as "Proprietary," however, is inappropriate.

60.900 **Data Processing Capabilities**

The processing (tracking and reporting) and maintenance of data is a crucial component of this contract. Therefore, this section shall explain the adequacy of an offeror's system to collect, maintain, process, and report the required information by island (East & West Hawaii for the island of Hawaii) and on a statewide basis. This section shall also include explanations as to any modifications or expansions needed in order to meet the specified data requirements. The proposal shall also include the following information:

- a. Hardware to be used and availability on a statewide basis.
- b. Software to be used on a statewide basis.
- c. Explanation of how and what data and information will be collected, compiled, and transmitted by the offeror between islands.
- d. A general listing of the data and information which will be maintained within the offeror's information system for this RFP.
- e. Explain or provide systems staff the offeror will require to establish and/or to maintain the computer system and produce the required reports specified in the RFP.

SECTION 70 BUSINESS PROPOSAL

70.100 Business Proposal

The offeror shall provide a cost per service for the scope of work specified in the RFP. The offer submitted will be the offeror's best and final offer. The business proposal shall include the schedules in Appendix H.

70.200 Annual Rate

The offeror shall submit an annual rate for the services set forth in this RFP. The rate shall be inclusive of all services and activities encompassed by this RFP.

Detail of the annual rate must be provided to the State. Detail shall include all cost data including, but not limited to salaries, fringe benefits, travel, office space, equipment, and all other cost items. All costs models will be kept confidential.

The offeror shall provide a cost proposal (Appendix H) and the offer submitted will be your best and final offer.

SECTION 80 EVALUATION AND SELECTION

80.100 Introduction

DHS shall conduct a comprehensive, fair, and impartial evaluation of proposals received in response to this RFP. DHS shall be the sole judge in the selection of the offeror. The evaluation of the proposals shall be conducted as follows:

- Review of the proposals to ensure that all mandatory requirements are met
- Review of the technical proposals to determine whether an offeror meets the minimum criteria and requirements

Once the technical proposals have been evaluated and the qualifying offeror(s) identified, the process shall continue with the following steps:

- Review of the business proposals to determine whether the administrative rates are acceptable to DHS.
- Award of the contract to the selected offeror

80.200 Evaluation Committee

DHS shall establish an evaluation committee to evaluate the proposals. The committee shall consist of members familiar with the operational aspects of the Hawaii Medicaid programs and the minimum standards or criteria for this RFP. DHS may, at its discretion, designate additional representatives to assist in the evaluation process. The committee shall evaluate the qualifying proposals and document their comments, concerns, and questions.

Additionally, the evaluation committee may engage in follow-up telephone calls to others to clarify any Offeror comment or information in its proposal; contact any current users of an Offeror's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process.

Upon completion of the evaluation and review of business proposals, MQD shall forward its recommendations to the Director of Human Services or designate for approval of the award.

80.300 Mandatory Requirements

Proposals shall first be reviewed to ensure that all mandatory requirements have been met. Proposals shall comply with the instructions to Offerors contained throughout this RFP.

The minimum requirements for a proposal to be given consideration are:

- Proposal was submitted within the closing date and time for proposals.
- Technical and business proposals are in separate envelopes (refer to section 21.200)
- The proper number of separately bound copies are in sealed envelopes (refer to section 21.200)
- Proposal contains the necessary information in the proper Order (refer to Section 60.100)

Failure of the Offeror to comply with the instructions of this RFP or failure to submit a complete proposal, shall be grounds for the proposal nonresponsive to the RFP. However, DHS reserves the right to waive minor irregularities in proposals provided such action is in the best interest of the State. Where DHS may waive minor irregularities such waiver shall in no way modify the RFP requirements or excuse the Offeror from full compliance with the RFP specifications and other contract requirements if the Offeror is awarded the contract.

Proposals deemed by the evaluation team to be incomplete or not in accordance with the specified requirements shall be disqualified and the proposal returned to the Offeror with a letter of explanation.

80.400 Technical Proposal Evaluation and Scoring

Following the determination that the proposal meets the mandatory requirements, the Evaluation Committee will complete its evaluation of the Technical Proposal. Proposals shall comply with the instructions to Offerors contained throughout this RFP and provide the requested information in the order in which it is prescribed. The Offeror should address each topic as fully as possible yet be concise and succinct.

The Proposal with the highest score shall be offered a contract. In the event an inadequate response to this RFP is received, the terms set forth in HAR §3-143-609 shall apply.

80.410 *Step I - Merits of the Offeror and the Offeror's Technical Proposal (100 possible points)*

The Offeror shall be assigned a score based on the Offeror's experience, personnel assigned to the project, and data processing capabilities. DHS reserves the right to add, change or delete any of the criteria.

Proposals shall be evaluated by Med-QUEST Division using but not limited to the following criteria:

- Transmittal letter (5 points)
- Executive Summary (5 points)
- Company Background and Experience (30 points)
- Company Capabilities (20 points)
- Organization and Staffing (20 points)
- Data Processing Capabilities (20 points)

80.420 *Step II – Cost Analysis and Award*

The Offeror with the lowest cost proposal shall be awarded 20 points. The next lowest bidder shall be awarded 15 points. And the next lowest bidder shall be awarded 10 points.

80.500 Step I – Merits of the Bidder and the Bidder's Proposal (100 Possible Points)

The listing of criteria is not all-inclusive and MQD reserves the right to add, delete or modify any criteria.

- Transmittal Letter (5 points possible)

Transmittal letter must be on an official letterhead and signed by an individual authorized to legally bind the Offeror. Letter shall include all statements as specified in Section 60.300. If transmittal letter is incomplete no points will be awarded.

- Executive Summary (5 points possible)

Does the executive summary provide a broad understanding of the proposal?

- Company Background and Experience (30 points possible)

Does the proposal describe the company background and experience? Has the company demonstrated that the scope of services under this RFP can be completed by the Offeror?

- Company Capabilities (20 points possible)

Does the proposal describe a philosophy of resolution of client concerns? Does the company monitor itself to promote continuous improvement?

- Organization and Staffing (20 points possible)

Proposals will be evaluated on the basis of relevant experience and client references. MQD reserves the right to contact previous and current clients. The experience of the subcontractors, if applicable, will be evaluated as well. Included in this evaluation will be an assessment of past and current management experience for similar services of like projects in scope.

Proposals must demonstrate that Offeror has sufficient relevant program experience and has been successful in performing projects of similar scope to that described herein.

The competence of proposed key professionals and other employees in the project will account for all of the points. Qualifications of personnel will be evaluated according to

education and Hawaii Medicaid experience. Resumes of all key personnel must be provided.

- Data Processing Capabilities (20 points possible)

Does it explain the adequacy of the offeror's system to collect, track, maintain and process the required information? Did the offeror outline how they will assess the adequacy of the services, e.g. amount of time it takes to respond to calls/correspondence, resolve concerns/complaints, etc. If there are modifications or expansions, will the system be able to continue meet the specified data requirements?

80.600 Step II-Business Proposal

Each proposal will be examined to ensure that all required pricing schedules have been included by the Offeror. Proposals will be evaluated to ensure that reasonable firm fixed prices have been assigned. The points shall be given by the chart below:

	Lowest Proposal	2 nd Lowest Proposal	3 rd Lowest Proposal	4 th Lowest or More
Two Offerors	20	15		
Three Offerors	20	15	10	
Four Offerors	20	15	10	0

80.700 Step III - Contract Award

The technical and business proposal scores will be combined to determine the winning proposal. DHS shall award a single contract to the offeror that submitted the proposal ranked most advantageous under the evaluation process.

Upon receipt and acceptance of the winning bid, DHS shall initiate the contracting process. This RFP and the Offeror's technical proposal shall become part of the contract.

The Offeror shall be notified in writing that DHS intends to contract with the Offeror. This letter shall serve as notification that the Offeror should begin to develop its program, materials, policies and procedures.

Each notice of award shall contain a statement of findings and decisions for the award or non-award of the contract to each Offeror.

APPENDICES

APPENDIX A – PROPOSAL APPLICATION FORM (SPO-H-200)

STATE OF HAWAII
STATE PROCUREMENT OFFICE
PROPOSAL APPLICATION IDENTIFICATION FORM

STATE AGENCY ISSUING RFP: _____

RFP NUMBER: _____

RFP TITLE: _____

Check one:

☐ Initial Proposal Application

☐ Final Revised Proposal (Completed Items _____ - _____ only)

1. APPLICANT INFORMATION

Legal Name:

Doing Business As:

Street Address:

Mailing Address:

Contact person for matters involving this application:
Name:

Title:

Phone Number:

Fax Number:

e-mail:

2. BUSINESS INFORMATION

Type of Business Entity (*check one*):

☐ Non-Profit Corporation

☐ Limited Liability Company

☐ Sole Proprietorship

☐ For-Profit Corporation

☐ Partnership

If applicable, state of incorporation and date incorporated:

State: _____ Date: _____

3. PROPOSAL INFORMATION

Geographic area(s):

Target group(s):

4. FUNDING REQUEST

FY _____

FY _____

FY _____

FY _____

FY _____

FY _____

Grand Total _____

I certify that the information provided above is to the best of my knowledge true and correct.

Authorized Representative Signature

Date Signed

Name and Title

APPENDIX B – WRITTEN QUESTIONS FORMAT

Appendix B
Written Questions Format
Ombudsman Services
RFP-MQD-2010-008

Applicant Name	Date Submitted	Question #	RFP Section #	RFP Page #	Paragraph #	Question

APPENDIX C – GENERAL CONDITIONS

GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS

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GENERAL CONDITIONS FOR HEALTH & HUMAN SERVICES CONTRACTS

1. Representations and Conditions Precedent

1.1 Contract Subject to the Availability of State and Federal Funds.

1.1.1 State Funds. This Contract is, at all times, subject to the appropriation and allotment of state funds, and may be terminated without liability to either the PROVIDER or the STATE in the event that state funds are not appropriated or available.

1.1.2 Federal Funds. To the extent that this Contract is funded partly or wholly by federal funds, this Contract is subject to the availability of such federal funds. The portion of this Contract that is to be funded federally shall be deemed severable, and such federally funded portion may be terminated without liability to either the PROVIDER or the STATE in the event that federal funds are not available. In any case, this Contract shall not be construed to obligate the STATE to expend state funds to cover any shortfall created by the unavailability of anticipated federal funds.

1.2 Representations of the PROVIDER. As a necessary condition to the formation of this Contract, the PROVIDER makes the representations contained in this paragraph, and the STATE relies upon such representations as a material inducement to entering into this Contract.

1.2.1 Compliance with Laws. As of the date of this Contract, the PROVIDER complies with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the PROVIDER's performance of this Contract.

1.2.2 Licensing and Accreditation. As of the date of this Contract, the PROVIDER holds all licenses and accreditations required under applicable federal, state, and county laws, ordinances, codes, rules, and regulations to provide the Required Services under this Contract.

1.3 Compliance with Laws. The PROVIDER shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the PROVIDER's performance of this Contract, including but not limited to the laws specifically enumerated in this paragraph:

1.3.1 Smoking Policy. The PROVIDER shall implement and maintain a written smoking policy as required by Chapter 328K, Hawaii Revised Statutes (HRS), or its successor provision.

1.3.2 Drug Free Workplace. The PROVIDER shall implement and maintain a drug free workplace as required by the Drug Free Workplace Act of 1988.

- 1.3.3 Persons with Disabilities. The PROVIDER shall implement and maintain all practices, policies, and procedures required by federal, state, or county law, including but not limited to the Americans with Disabilities Act (42 U.S.C. §12101, et seq.), and the Rehabilitation Act (29 U.S.C. §701, et seq.).
- 1.3.4 Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
- 1.4 Insurance Requirements. The PROVIDER shall obtain from a company authorized by law to issue such insurance in the State of Hawai'i commercial general liability insurance ("liability insurance") in an amount of at least TWO MILLION AND NO/100 DOLLARS (\$2,000,000.00) coverage for bodily injury and property damage resulting from the PROVIDER's performance under this Contract. The PROVIDER shall maintain in effect this liability insurance until the STATE certifies that the PROVIDER's work under the Contract has been completed satisfactorily.
- The liability insurance shall be primary and shall cover the insured for all work to be performed under the Contract, including changes, and all work performed incidental thereto or directly or indirectly connected therewith.
- A certificate of the liability insurance shall be given to the STATE by the PROVIDER. The certificate shall provide that the STATE and its officers and employees are Additional Insureds. The certificate shall provide that the coverages being certified will not be cancelled or materially changed without giving the STATE at least 30 days prior written notice by registered mail.
- Should the "liability insurance" coverages be cancelled before the PROVIDER's work under the Contract is certified by the STATE to have been completed satisfactorily, the PROVIDER shall immediately procure replacement insurance that complies in all respects with the requirements of this section.
- Nothing in the insurance requirements of this Contract shall be construed as limiting the extent of PROVIDER's responsibility for payment of damages resulting from its operations under this Contract, including the PROVIDER's separate and independent duty to defend, indemnify, and hold the STATE and its officers and employees harmless pursuant to other provisions of this Contract.
- 1.5 Notice to Clients. Provided that the term of this Contract is at least one year in duration, within 180 days after the effective date of this Contract, the PROVIDER shall create written procedures for the orderly termination of services to any clients receiving the Required Services under this Contract, and for the transition to services supplied by another provider upon termination of this Contract, regardless of the circumstances of such termination. These procedures shall include, at

the minimum, timely notice to such clients of the termination of this Contract, and appropriate counseling.

- 1.6 **Reporting Requirements.** The PROVIDER shall submit a Final Project Report to the STATE containing the information specified in this Contract if applicable, or otherwise satisfactory to the STATE, documenting the PROVIDER's overall efforts toward meeting the requirements of this Contract, and listing expenditures actually incurred in the performance of this Contract. The PROVIDER shall return any unexpended funds to the STATE.
- 1.7 **Conflicts of Interest.** In addition to the Certification provided in the Standards of Conduct Declaration to this Contract, the PROVIDER represents that neither the PROVIDER nor any employee or agent of the PROVIDER, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the PROVIDER's performance under this Contract.

2. Documents and Files

- 2.1 **Confidentiality of Material.**
- 2.1.1 **Proprietary or Confidential Information.** All material given to or made available to the PROVIDER by virtue of this Contract that is identified as proprietary or confidential information shall be safeguarded by the PROVIDER and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
- 2.1.2 **Uniform Information Practices Act.** All information, data, or other material provided by the PROVIDER to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS, and any other applicable law concerning information practices or confidentiality.
- 2.2 **Ownership Rights and Copyright.** The STATE shall have complete ownership of all material, both finished and unfinished that is developed, prepared, assembled, or conceived by the PROVIDER pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the PROVIDER pursuant to this Contract.
- 2.3 **Records Retention.** The PROVIDER and any subcontractors shall maintain the books and records that relate to the Contract, and any cost or pricing data for three (3) years from the date of final payment under the Contract. In the event that any litigation, claim, investigation, audit, or other action involving the records retained under this provision arises, then such records shall be retained for three (3) years from the date of final payment, or the date of the resolution of the action, whichever occurs later. During the period that records are retained under this section, the

PROVIDER and any subcontractors shall allow the STATE free and unrestricted access to such records.

3. Relationship between Parties

- 3.1 Coordination of Services by the STATE. The STATE shall coordinate the services to be provided by the PROVIDER in order to complete the performance required in the Contract. The PROVIDER shall maintain communications with the STATE at all stages of the PROVIDER's work, and submit to the STATE for resolution any questions which may arise as to the performance of this Contract.
- 3.2 Subcontracts and Assignments. The PROVIDER may assign or subcontract any of the PROVIDER's duties, obligations, or interests under this Contract, but only if (i) the PROVIDER obtains the prior written consent of the STATE and (ii) the PROVIDER's assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state law against the PROVIDER's assignee or subcontractor have been paid. Additionally, no assignment by the PROVIDER of the PROVIDER's right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawai'i, as provided in section 40-58, HRS.
- 3.3 Change of Name. When the PROVIDER asks to change the name in which it holds this Contract, the STATE, shall, upon receipt of a document acceptable or satisfactory to the STATE indicating such change of name such as an amendment to the PROVIDER's articles of incorporation, enter into an amendment to this Contract with the PROVIDER to effect the change of name. Such amendment to this Contract changing the PROVIDER's name shall specifically indicate that no other terms and conditions of this Contract are thereby changed, unless the change of name amendment is incorporated with a modification or amendment to the Contract under paragraph 4.1 of these General Conditions.
- 3.4 Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
- 3.4.1 Independent Contractor. In the performance of services required under this Contract, the PROVIDER is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE's opinion, the services are being performed by the PROVIDER in compliance with this Contract.
- 3.4.2 Contracts with Other Individuals and Entities. Unless otherwise provided by special condition, the STATE shall be free to contract with other individuals and entities to provide services similar to those performed by the Provider under this Contract, and the

PROVIDER shall be free to contract to provide services to other individuals or entities while under contract with the STATE.

- 3.4.3 PROVIDER's Employees and Agents. The PROVIDER and the PROVIDER's employees and agents are not by reason of this Contract, agents or employees of the State for any purpose. The PROVIDER and the PROVIDER's employees and agents shall not be entitled to claim or receive from the STATE any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees. Unless specifically authorized in writing by the STATE, the PROVIDER and the PROVIDER's employees and agents are not authorized to speak on behalf and no statement or admission made by the PROVIDER or the PROVIDER's employees or agents shall be attributed to the STATE, unless specifically adopted by the STATE in writing.
- 3.4.4 PROVIDER's Responsibilities. The PROVIDER shall be responsible for the accuracy, completeness, and adequacy of the PROVIDER's performance under this Contract.

Furthermore, the PROVIDER intentionally, voluntarily, and knowingly assumes the sole and entire liability to the PROVIDER's employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the PROVIDER, or the PROVIDER's employees or agents in the course of their employment.

The PROVIDER shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the PROVIDER by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The PROVIDER also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.

The PROVIDER shall obtain a general excise tax license from the Department of Taxation, State of Hawai'i, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The PROVIDER shall obtain a tax clearance certificate from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state law against the PROVIDER have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The PROVIDER shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under section 103-53, HRS, and these General Conditions.

The PROVIDER is responsible for securing all employee-related insurance coverage for the PROVIDER and the PROVIDER's employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.

3.5 Personnel Requirements.

3.5.1 Personnel. The PROVIDER shall secure, at the PROVIDER's own expense, all personnel required to perform this Contract, unless otherwise provided in this Contract.

3.5.2 Requirements. The PROVIDER shall ensure that the PROVIDER's employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.

4. Modification and Termination of Contract

4.1 Modification of Contract.

4.1.1 In Writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the PROVIDER and the STATE.

4.1.2 No Oral Modification. No oral modification, alteration, amendment, change, or extension of any term, provision or condition of this Contract shall be permitted.

4.1.3 Tax Clearance. The STATE may, at its discretion, require the PROVIDER to submit to the STATE, prior to the STATE's approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawai'i, and the Internal Revenue Service showing that all delinquent taxes, if any, levied or accrued under state and federal law against the PROVIDER have been paid.

4.2 Termination in General. This Contract may be terminated in whole or in part because of a reduction of funds available to pay the PROVIDER, or when, in its sole discretion, the STATE determines (i) that there has been a change in the conditions upon which the need for the Required Services was based, or (ii) that the PROVIDER has failed to provide the Required Services adequately or satisfactorily, or (iii) that other good cause for the whole or partial termination of this Contract exists. Termination under this section shall be made by a written notice sent to the PROVIDER ten (10) working days prior to the termination date that includes a brief statement of the reason for the termination. If the Contract is terminated under this paragraph, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.

- 4.3 Termination for Necessity or Convenience. If the STATE determines, in its sole discretion, that it is necessary or convenient, this Contract may be terminated in whole or in part at the option of the STATE upon ten (10) working days' written notice to the PROVIDER. If the STATE elects to terminate under this paragraph, the PROVIDER shall be entitled to reasonable payment as determined by the STATE for satisfactory services rendered under this Contract up to the time of termination. If the STATE elects to terminate under this section, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.
- 4.4 Termination by PROVIDER. The PROVIDER may withdraw from this Contract after obtaining the written consent of the STATE. The STATE, upon the PROVIDER's withdrawal, shall determine whether payment is due to the PROVIDER, and the amount that is due. If the STATE consents to a termination under this paragraph, the PROVIDER shall cooperate with the STATE to effect an orderly transition of services to clients.
- 4.5 STATE's Right of Offset. The STATE may offset against any monies or other obligations that STATE owes to the PROVIDER under this Contract, any amounts owed to the State of Hawai'i by the PROVIDER under this Contract, or any other contract, or pursuant to any law or other obligation owed to the State of Hawai'i by the PROVIDER, including but not limited to the payment of any taxes or levies of any kind or nature. The STATE shall notify the PROVIDER in writing of any exercise of its right of offset and the nature and amount of such offset. For purposes of this paragraph, amounts owed to the State of Hawai'i shall not include debts or obligations which have been liquidated by contract with the PROVIDER, and that are covered by an installment payment or other settlement plan approved by the State of Hawai'i, provided, however, that the PROVIDER shall be entitled to such exclusion only to the extent that the PROVIDER is current, and in compliance with, and not delinquent on, any payments, obligations, or duties owed to the State of Hawai'i under such payment or other settlement plan.

5. Indemnification

- 5.1 Indemnification and Defense. The PROVIDER shall defend, indemnify, and hold harmless the State of Hawai'i, the contracting agency, and their officers, employees, and agents from and against any and all liability, loss, damage, cost, expense, including all attorneys' fees, claims, suits, and demands arising out of or in connection with the acts or omissions of the PROVIDER or the PROVIDER's employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
- 5.2 Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the PROVIDER in connection with this Contract, the PROVIDER shall pay any cost and expense incurred by or imposed on the STATE, including attorneys' fees.

6. Publicity

- 6.1 Acknowledgment of State Support. The PROVIDER shall, in all news releases, public statements, announcements, broadcasts, posters, programs, computer postings, and other printed, published, or electronically disseminated materials relating to the PROVIDER's performance under this Contract, acknowledge the support by the State of Hawai'i and the purchasing agency.
- 6.2 PROVIDER's Publicity Not Related to Contract. The PROVIDER shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, or to the services or goods, or both provided under this Contract, in any of the PROVIDER's publicity not related to the PROVIDER's performance under this Contract, including but not limited to commercial advertisements, recruiting materials, and solicitations for charitable donations.

7. Miscellaneous Provisions

- 7.1 Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the PROVIDER, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
- 7.2 Paragraph Headings. The paragraph headings appearing in this Contract have been inserted for the purpose of convenience and ready reference. They shall not be used to define, limit, or extend the scope or intent of the sections to which they pertain.
- 7.3 Antitrust Claims. The STATE and the PROVIDER recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the PROVIDER hereby assigns to the STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.
- 7.4 Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawai'i. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawai'i.
- 7.5 Conflict between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the Procurement Rules or a Procurement Directive, the Procurement Rules or any Procurement Directive in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
- 7.6 Entire Contract. This Contract sets forth all of the contracts, conditions, understandings, promises, warranties, and representations between the STATE and the PROVIDER relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings,

promises, warranties, and representations, which shall have no further force or effect. There are no contracts, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the PROVIDER other than as set forth or as referred to herein.

- 7.7 Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
- 7.8 Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE's right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the Procurement Rules or one section of the Hawai'i Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE's rights or the PROVIDER's obligations under the Procurement Rules or statutes.
- 7.9 Execution in Counterparts. This Contract may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one instrument.

8. Confidentiality of Personal Information

8.1 Definitions.

8.1.1 Personal Information. "Personal Information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:

- 1) Social Security number;
- 2) Driver's license number or Hawaii identification card number; or
- 3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

8.1.2 Technological Safeguards. "Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

8.2 Confidentiality of Material.

8.2.1 Safeguarding of Material. All material given to or made available to the PROVIDER by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the PROVIDER and shall not be disclosed without the prior written approval of the STATE.

8.2.2 Retention, Use, or Disclosure. PROVIDER agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.

8.2.3 Implementation of Technological Safeguards. PROVIDER agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.

8.2.4 Reporting of Security Breaches. PROVIDER shall report to the STATE in a prompt and complete manner any security breaches involving personal information.

8.2.5 Mitigation of Harmful Effect. PROVIDER agrees to mitigate, to the extent practicable, any harmful effect that is known to PROVIDER because of a use or disclosure of personal information by PROVIDER in violation of the requirements of this paragraph.

8.2.6 Log of Disclosures. PROVIDER shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by PROVIDER on behalf of the STATE.

8.3 Security Awareness Training and Confidentiality Agreements.

8.3.1 Certification of Completed Training. PROVIDER certifies that all of its employees who will have access to the personal information have completed training on security awareness topics related to protecting personal information.

8.3.2 Certification of Confidentiality Agreements. PROVIDER certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:

- 1) The personal information collected, used, or maintained by the PROVIDER will be treated as confidential;
- 2) Access to the personal information will be allowed only as necessary to perform the Contract; and
- 3) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

8.4 Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by PROVIDER of this paragraph by PROVIDER, the STATE may at its sole discretion:

- 1) Provide an opportunity for the PROVIDER to cure the breach or end the violation; or
- 2) Immediately terminate this Contract.

In either instance, the PROVIDER and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

8.5 Records Retention.

8.5.1 Destruction of Personal Information. Upon any termination of this Contract, PROVIDER shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.

8.5.2 Maintenance of Files, Books, Records. The PROVIDER and any subcontractors shall maintain the files, books, and records, that relate to the Contract, including any personal information created or received by the PROVIDER on behalf of the STATE, and any cost or pricing data, for three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall not be disclosed without the prior written approval of the STATE. After the three (3) year retention period has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS.

APPENDIX D – BUSINESS ASSOCIATE LANGUAGE

APPENDIX D

Exhibit

Special Conditions

Applicable to CONTRACTORS or PROVIDERS that are Business Associates of STATE under 45 CFR § 160.103

1. **Introduction:** This Agreement has been determined to be a business associate relationship under the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 ("HIPAA") and its implementing privacy and security regulations at 45 CFR Part 160 and 164 ("the HIPAA regulations"). The STATE wishes to disclose to Business Associate certain information pursuant to the terms of this Agreement, some of which may constitute Protected Health Information (PHI). Under this Agreement, CONTRACTOR or PROVIDER is the Business Associate of STATE and provides services, arranges, performs, or assists in the performance of functions or activities on behalf of the STATE, and uses or discloses PHI. STATE and Business Associate desire to protect the privacy and provide for the security of PHI disclosed pursuant to this Agreement, in compliance with HIPAA, and the HIPAA regulations.
2. **Definitions:**
 - a. The terms used in these special conditions, but not otherwise defined, shall have the same meanings as those terms in the HIPAA regulations.
 - b. "Agreement" shall mean the agreement between STATE and Business Associate to which these special conditions are attached, and all attachments, exhibits and any special conditions.
 - c. "Individual" means the person who is the subject of Protected Health Information, and shall include a person who qualifies as a personal representative under § 164.502(g) of the HIPAA regulations.
 - d. "Protected Health Information" means any information, whether oral or recorded in any form or medium, that relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. For purposes of this Agreement, the term Protected Health Information is limited to the information created or received by Business Associate from or on behalf of STATE.
 - e. "Secretary" shall mean the Secretary of the U.S. Department of Health and Human Services or designee.
 - f. "Security incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an Information System.

APPENDIX D

3. Obligations and Activities of Business Associate. Business Associate agrees:
- a. To not use or disclose PHI other than as permitted or required by this Agreement or as required by law.
 - b. To use appropriate safeguards to prevent use or disclosure of PHI consistent with the requirements of this Agreement.
 - c. To implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the STATE, and to prevent use or disclosure of PHI other than as provided for by this Agreement. This includes adoption of the e-mail encryption solution as defined by the STATE if deemed necessary by the STATE.
 - d. To ensure that any agent, including a subcontractor, to whom Business Associate provides PHI, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such Protected Health Information, and to incorporate, when applicable, the relevant provisions of these special condition into each such subcontract or subaward to such agents or subcontractors.
 - e. To make Business Associate's internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI, available to STATE and/or to the Secretary, at reasonable times and places or as designated by the Secretary or STATE, for purposes of determining STATE's compliance with the HIPAA regulations.
 - f. To document and make available to STATE or, at the direction of STATE, to an individual, such disclosures of PHI and information related to such disclosures necessary for STATE to respond to a request by the subject individual for an accounting of disclosures of PHI in accordance with § 164.528 of the HIPAA regulations.
 - g. To provide access to PHI in the designated record set to STATE or, as directed by STATE, to an individual to the extent and in the manner required by § 164.524 of the HIPAA regulations. "Designated Record Set" means the group of records maintained for the STATE that included medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for STATE health plans; or those records used to make decisions about individuals on behalf of the STATE. Business Associate shall respond to requests for access to records transmitted by the STATE within 10 days of receipt of the request by producing the records or verifying that there are none.
 - h. To make any amendment(s) to PHI that the STATE directs or agrees to in accordance with § 164.526 of the HIPAA regulations individual in the time and manner designated by the STATE.
 - i. To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of these special conditions.

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- j. To provide written notice to STATE within 2 business days of discovery by Business Associate that PHI has been used or disclosed other than as provided for by these special conditions.
- k. To immediately report to STATE any security incident of which it becomes aware with respect to PHI that is in the custody of Business Associate by calling the MQD Civil Defense Coordinator at (808) 348-9171. Written notice shall be provided within 2 business days of discovery. Business Associate shall take (1) prompt corrective action to cure any deficiencies and (2) any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Business Associate shall investigate such breach and provide a written report of the investigation and resultant mitigation within thirty (30) calendar days of the discovery of the breach.
- l. Notices: Whenever written notice is required under this Agreement, it should be mailed and/or faxed to:

MQD HIPAA Project Manager
P.O. Box 700190
Kapolei, Hawaii 96709-0190
Fax: (808) 692-8155

- m. To train and use reasonable measures to ensure compliance with the requirements of these special conditions by employees who assist in the performance of functions or activities on behalf of the STATE under this Agreement and use or disclose PHI; and discipline such employees who intentionally violate any provisions of these special conditions, including by termination of employment.
4. Permitted Uses and Disclosures by Business Associate
- a. General Use and Disclosure Provisions. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, STATE as specified in this Agreement, provided that such use or disclosure would not violate the HIPAA regulations if done by STATE or the minimum necessary policies and procedures of the STATE.
 - b. Specific Use and Disclosure Provisions
 - (i) Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
 - (ii) Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are required by law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances

APPENDIX D

of which it is aware in which the confidentiality of the information has been breached.

- (iii) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide data aggregation services to STATE as permitted by § 164.504(e)(2)(i)(B) of the HIPAA regulations.
 - (iv) Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with § 164.502(j)(1) of the HIPAA regulations.
- 5. Permissible Requests by STATE. STATE shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA regulations if done by STATE, except if Business Associate will use or disclose PHI for data aggregation or management and administrative activities of Business Associate.
- 6. Termination for Cause. In addition to any other remedies provided for by this Agreement, upon STATE's knowledge of a material breach by Business Associate of these special conditions, STATE shall either:
 - a. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - b. If neither termination nor cure are feasible, STATE shall report the violation to the Secretary.
- 7. Effect of Termination.
 - a. Except as provided in section 7.b, below, upon termination of this Agreement, for any reason, Business Associate shall, at STATE's option, return or destroy all PHI received from STATE, or created or received by Business Associate on behalf of STATE. Business Associate shall retain no copies of the PHI. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate.
 - b. In the event that Business Associate determines that returning or destroying the PHI is not feasible, Business Associate shall provide to STATE notification of the conditions that make return or destruction not feasible. For any period of time that return or destruction of PHI is not feasible or not completed, Business Associate shall extend the protections of these special conditions to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.
- 8. Miscellaneous
 - a. Regulatory References. A reference in these special conditions to a section in the HIPAA regulations means the section in effect or as amended.
 - b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for STATE to comply with the requirements of the HIPAA and the HIPAA Regulations, as the same may be amended.

APPENDIX D

- c. Survival. The respective rights and obligations of Business Associate under Section 7.b, above, shall survive the termination of this Agreement.
- d. Interpretation. In the event of an inconsistency between the provisions of this Agreement and mandatory provisions of the HIPAA regulations, as amended, the HIPAA regulations shall control. Where provisions of this Agreement are different than those mandated in the HIPAA regulations, but are nonetheless permitted by the HIPAA regulations, the provisions of this Agreement shall control. Any ambiguity in this Agreement shall be resolved to permit STATE to comply with the HIPAA regulations.
- e. Third Party Rights. These Special Conditions are entered into solely between, and may be enforced only by, Business Associate and the STATE. These special conditions shall not be deemed to create any rights in third parties or to create any obligations of Business Associate or the STATE to any third party.

APPENDIX E – STANDARD OF CONDUCT

PROVIDER'S STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

“Agency” means and includes the State, the legislature and its committees, all executive departments, boards, commissions, committees, bureaus, offices; and all independent commissions and other establishments of the state government but excluding the courts.

“Controlling interest” means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty per cent (50%).

“Employee” means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges. (Section 84-3, HRS).

On behalf of:

(Name of PROVIDER)

PROVIDER, the undersigned does declare as follows:

1. PROVIDER ☐ is * ☐ is not a legislator or an employee or a business in which a legislator or an employee has a controlling interest. (Section 84-15(a), HRS).
2. PROVIDER has not been represented or assisted personally in the matter by an individual who has been an employee of the agency awarding this Contract within the preceding two years and who participated while so employed in the matter with which the Contract is directly concerned. (Section 84-15(b), HRS).
3. PROVIDER has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Contract and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Contract, if the legislator or employee had been involved in the development or award of the Contract. (Section 84-14 (d), HRS).
4. PROVIDER has not been represented on matters related to this Contract, for a fee or other consideration by an individual who, within the past twelve (12) months, has been an agency employee, or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Contract. (Sections 84-18(b) and (c), HRS).

PROVIDER understands that the Contract to which this document is attached is voidable on behalf of the STATE if this Contract was entered into in violation of any provision of chapter 84, Hawai'i Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the

* Reminder to agency: If the “is” block is checked and if the Contract involves goods or services of a value in excess of \$10,000, the Contract may not be awarded unless the agency posts a notice of its intent to award it and files a copy of the notice with the State Ethics Commission. (Section 84-15(a), HRS).

CONTRACT NO. _____

declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the STATE.

PROVIDER

By _____
(Signature)

Print Name _____

Print Title _____

Date _____

APPENDIX F – PROPOSAL LETTER

Appendix F

STATE OF HAWAII Department of Human Services

PROPOSAL LETTER RFP-MQD-2010-008

We propose to furnish and deliver any and all of the deliverables and services named in the attached Request for Proposal. The administrative rates offered herein shall apply for the period of time stated in the said RFP.

It is understood that this proposal constitutes an offer and when signed by the authorized State of Hawaii official will, with the RFP and any amendments thereto, constitute a valid and legal contract between the undersigned Offeror and the State of Hawaii.

It is understood and agreed that we have read the State's specifications described in the RFP and that this proposal is made in accordance with the provisions of such specifications. By signing this proposal, we guarantee and certify that all items included in this proposal meet or exceed any and all such State specifications. We also affirm, by signing this proposal, that we have acknowledged the reference materials in the State's documentation library and that we have used this documentation as a basis for submitting our firm fixed price cost proposal.

It is also understood that failure to enter into the contract upon award shall result in forfeiture of the surety bond, if requested. We agree, if awarded the contract, to deliver goods or services which meet or exceed the specifications.

Authorized Offeror's Signature/Corporate Seal

Date

APPENDIX G – DISCLOSURE STATEMENT

**APPENDIX G
FORMS**

**DISCLOSURE STATEMENT
OWNERSHIP**

Company/Agency Name: _____
Address (City, State, Zip): _____
Telephone: _____

For the period beginning: _____ and ending _____

Type of Entity:

- | | |
|--|--|
| <p><input type="radio"/> Sole Proprietorship</p> <p><input type="radio"/> Partnership</p> <p><input type="radio"/> Corporation</p> <p><input type="radio"/> Governmental</p> | <p><input type="radio"/> For-Profit</p> <p><input type="radio"/> Non-Profit</p> <p><input type="radio"/> Other (Specify)</p> |
|--|--|

455.104 Information on Ownership and Control

- a. List the names and addresses of any individuals or organizations with an ownership or controlling interest in the disclosing entity. "Ownership interest" means the possession of equity in the capital, the stock, or the profits of disclosing entity, directly or indirectly.

<u>Name</u>	<u>Address</u>	<u>Percent of Ownership of Control</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

- b. List the names and addresses of any individuals or organizations with an ownership or controlling interest in any subOfferor in which the disclosing entity has direct or indirect ownership of five (5) percent or more.

<u>Name</u>	<u>Address</u>	<u>Percent of Ownership of Control</u>

- c. Names of persons named in (a) and (b) above who are related to another as spouse, parent, child, or sibling of those individuals or organizations with an ownership or controlling interest.

- d. List the names of any other disclosing entity in which a person with an ownership or controlling interest in the disclosing entity also has an ownership or controlling interest.

455.105 Information Related to Business Transactions

- e. List the ownership of any subcontractor with whom the Offeror has had business transactions totaling more than \$25,000 during the 12-month period ending on the date of the request.

<u>Describe Ownership of Subcontractors</u>	<u>Type of Business Transaction with Provider</u>	<u>Dollar Amount of Transaction</u>

- f. List any significant business transactions between the Offeror and any wholly owned supplier or between the Offeror and any subOfferor during the five-year period ending on the date of the request.

<u>Describe Ownership of Subcontractors</u>	<u>Type of Business Transaction with Provider</u>	<u>Dollar Amount of Transaction</u>

455.106 Information on Persons Convicted of Crime

- g. List the names of any person who has ownership or controlling interest in the Offeror, or is an agent or managing employee of the Offeror and has been convicted of a criminal offense related to that person's involvement in any program under Medicare, Medicaid or the Title XX services program since the inception of those programs.

<u>Name</u>	<u>Address</u>	<u>Title</u>

CONTROLLING INTEREST FORM

The Offeror must provide the name and address of any individual which owns or controls more than ten percent (10%) of stock or that has a controlling interest (i.e., about to formulate, determine or veto business policy decisions, etc.). Failure to make full disclosure may result in rejection of the Offeror's proposal as unresponsive.

<u>NAME</u>	<u>ADDRESS</u>	<u>OWNER OR CONTROLLER</u>	HAS CONTROLLING INTEREST <u>YES</u>
-------------	----------------	----------------------------	---

GRIEVANCE SYSTEM FORM

The Offeror must complete the form below and submit with this proposal.

I hereby certify that _____
(Offeror Name)

will have in place on the commencement date of this contract a system for reviewing and adjudicating grievances by recipients and providers arising from this contract in accordance with DHS Rules and as set forth in the Request for Proposal.

I understand such a system must provide for prompt resolution of grievances and assure the participation of individuals with authority to require corrective action.

I further understand the Offeror must have a grievance policy for recipients and providers which defines their rights regarding any adverse action by the Offeror. The grievance policy shall be in writing and shall meet the minimum standards set forth in this Request for Proposal.

I further understand evaluation of the grievance procedure shall be conducted through documentation submission, monitoring, reporting, and on-site audit, if necessary, by DHS and deficiencies are subject to sanction in accordance with DHS rules.

Authorized Signature

Date

Printed Name

Title

WAGE CERTIFICATION

Pursuant to Section 103-55, Hawaii Revised Statutes, I hereby certify that if awarded the contract in excess of \$25,000, the services to be performed will be performed under the following conditions:

1. The services to be rendered shall be performed by employees paid at wages or salaries not less than wages paid to the public officers and employees for similar work, if similar positions are listed in the classification plan of the public sector.
2. All applicable laws of the Federal and State governments relating to worker's compensation, unemployment insurance, payment of wages, and safety will be fully complied with.

I understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wages required by Section 103-55, HRS.

Offeror:

Signature:

Title:

Date:

INSURANCE

Offeror shall provide the following:

1. Commercial General Liability Insurance is provided by:

Insurance Company _____

Coverage _____

2. Reinsurance is provided by:

Insurance Company _____

Coverage _____

3. Other forms of insurance will be provided by:

Type: _____

Insurance Company _____

Coverage _____

Type: _____

Insurance Company _____

Coverage _____

Type: _____

Insurance Company _____

Coverage _____

Offeror: _____

ACORD. CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YY)
(1)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

Phone:

Fax:

INSURERS AFFORDING COVERAGE

INSURED

(2)

INSURER A:

INSURER B:

INSURER C:

(3)

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	GENERAL LIABILITY <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR(4) <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	(5)	(6)	(7)	EACH OCCURRENCE	
					FIRE DAMAGE (Any one fire)	
					MEDICAL EXPENSE (Any one person)	
					PERSONAL & ADVERTISING INJURY	(8)
					GENERAL AGGREGATE	(10)
					PRODUCTS-COMWOP AGGREGATE	
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS (9) <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/>				COMBINED SINGLE LIMIT (Each accident)	
					BODILY INJURY (Per person)	(10)
					BODILY INJURY (Per accident)	
					PROPERTY DAMAGE (Per accident)	
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> <input type="checkbox"/>				AUTO ONLY - EACH ACCIDENT	
					OTHER THAN AUTO ONLY:	EA. ACC.
						AGG.
	EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION				EACH OCCURRENCE	
					AGGREGATE	(10)
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
					E.L. EACH ACCIDENT	
					E.L. DISEASE - EACH EMPLOYEE	(11)
					E.L. DISEASE - POLICY LIMIT	
	OTHER <input type="checkbox"/> (12)					

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

(13)

CERTIFICATE HOLDER

ADDITIONAL INSURED: INSURER LETTER:

CANCELLATION

(14)

(15)

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

(16)

APPENDIX H – BUSINESS PROPOSAL

APPENDIX H

Summary of Budget Sheets

SPO-H-205	\$ _____
SPO-H-205A	\$ _____
SPO-H-205B	\$ _____
SPO-H-206A	\$ _____
SPO-H-206B	\$ _____
SPO-H-206C	\$ _____
SPO-H-206E	\$ _____
SPO-H-206F	\$ _____
SPO-H-206H	\$ _____
SPO-H-206I	\$ _____
SPO-H-206J	\$ _____

BUDGET

(Period _____ to _____)

Applicant/Provider: _____

RFP No.: _____

Contract No. (As Applicable): _____

BUDGET CATEGORIES	Budget Request (a)	(b)	(c)	(d)
A. PERSONNEL COST				
1. Salaries				
2. Payroll Taxes & Assessments				
3. Fringe Benefits				
TOTAL PERSONNEL COST				
B. OTHER CURRENT EXPENSES				
1. Airfare, Inter-Island				
2. Airfare, Out-of-State				
3. Audit Services				
4. Contractual Services - Administrative				
5. Contractual Services - Subcontracts				
6. Insurance				
7. Lease/Rental of Equipment				
8. Lease/Rental of Motor Vehicle				
9. Lease/Rental of Space				
10. Mileage				
11. Postage, Freight & Delivery				
12. Publication & Printing				
13. Repair & Maintenance				
14. Staff Training				
15. Substance/Per Diem				
16. Supplies				
17. Telecommunication				
18. Transportation				
19. Utilities				
20.				
21.				
22.				
23.				
TOTAL OTHER CURRENT EXPENSES				
C. EQUIPMENT PURCHASES				
D. MOTOR VEHICLE PURCHASES				
TOTAL (A+B+C+D)				
SOURCES OF FUNDING		Budget Prepared By: _____ <div style="display: flex; justify-content: space-between;"> Name (Please type or print) Phone </div> <div style="display: flex; justify-content: space-between;"> Signature of Authorized Official Date </div> <div style="display: flex; justify-content: space-between;"> Name and Title (Please type or print) </div>		
(a) Budget Request				
(b)				
(c)				
(d)				
TOTAL REVENUE		For State Agency Use Only <div style="display: flex; justify-content: space-between;"> Signature of Reviewer Date </div>		

ORGANIZATION - WIDE BUDGET BY SOURCE OF FUNDS

(Period _____ to _____)

Applicant/Provider: _____
 RFP No.: _____
 Contract No. (As Applicable): _____

BUDGET CATEGORIES	Total Funds (a)	(b)	(c)	(d)
A. PERSONNEL COST				
1. Salaries				
2. Payroll Taxes & Assessments				
3. Fringe Benefits				
TOTAL PERSONNEL COST				
B. OTHER CURRENT EXPENSES				
1. Airfare, Inter-Island				
2. Airfare, Out-of-State				
3. Audit Services				
4. Contractual Services - Administrative				
5. Contractual Services - Subcontracts				
6. Insurance				
7. Lease/Rental of Equipment				
8. Lease/Rental of Motor Vehicle				
9. Lease/Rental of Space				
10. Mileage				
11. Postage, Freight & Delivery				
12. Publication & Printing				
13. Repair & Maintenance				
14. Staff Training				
15. Substance/Per Diem				
16. Supplies				
17. Telecommunication				
18. Transportation				
19. Utilities				
20.				
21.				
22.				
23.				
TOTAL OTHER CURRENT EXPENSES				
C. EQUIPMENT PURCHASES				
D. MOTOR VEHICLE PURCHASES				
TOTAL (A+B+C+D)				
SOURCES OF FUNDING		Budget Prepared By: _____ Name (Please type or print) _____ Phone _____ Signature of Authorized Official _____ Date _____ Name and Title (Please type or print) _____		
(a) Total Funds				
(b)				
(c)				
(d)				
TOTAL REVENUE		For State Agency Use Only Signature of Reviewer _____ Date _____		

ORGANIZATION - WIDE BUDGET BY PROGRAMS

(Period _____ to _____)

Applicant/Provider _____

RFP No. : _____

Contract No. (As Applicable): _____

	(a)	(b)	(c)	(d)
BUDGET CATEGORIES	Contract/RFP#:	Contract/RFP#:	Contract/RFP#:	Contract/RFP#:
	Program:	Program:	Program:	Program:
A. PERSONNEL COST				
1. Salaries				
2. Payroll Taxes & Assessments				
3. Fringe Benefits				
TOTAL PERSONNEL COST				
B. OTHER CURRENT EXPENSES				
1. Airfare, Inter-Island				
2. Airfare, Out-of-State				
3. Audit Services				
4. Contractual Services - Administrative				
5. Contractual Services - Subcontracts				
6. Insurance				
7. Lease/Rental of Equipment				
8. Lease/Rental of Motor Vehicle				
9. Lease/Rental of Space				
10. Mileage				
11. Postage, Freight & Delivery				
12. Publication & Printing				
13. Repair & Maintenance				
14. Staff Training				
15. Substance/Per Diem				
16. Supplies				
17. Telecommunication				
18. Transportation				
19. Utilities				
20.				
21.				
22.				
23.				
TOTAL OTHER CURRENT EXPENSES				
C. EQUIPMENT PURCHASES				
D. MOTOR VEHICLE PURCHASES				
TOTAL (A+B+C+D)				
SOURCES OF FUNDING				
(a) Budget Request				
(b)				
(c)				
(d)				
TOTAL REVENUE				
For State Agency Use Only	Budget Prepared By:			
Signature of Reviewer	Date	Name (Please type or print)	Phone	Signature of Authorized Official Date

Applicant/Provider: _____
 RFP No.: _____ Period: _____ to _____ Date Prepared: _____
 Contract No. (As Applicable): _____

[illegible]

**BUDGET JUSTIFICATION
PERSONNEL - SALARIES AND WAGES**

BUDGET JUSTIFICATION
PERSONNEL: PAYROLL TAXES, ASSESSMENTS, AND FRINGE BENEFITS

Applicant/Provider: _____

RFP No.: _____ Period: _____ to _____ Date Prepared: _____

Contract No.: _____
 (As Applicable)

TYPE	BASIS OF ASSESSMENTS OR FRINGE BENEFITS	% OF SALARY	TOTAL
PAYROLL TAXES & ASSESSMENTS:			
Social Security	As required by law	As required by law	
Unemployment Insurance (Federal)	As required by law	As required by law	
Unemployment Insurance (State)	As required by law	As required by law	
Worker's Compensation	As required by law	As required by law	
Temporary Disability Insurance	As required by law	As required by law	
SUBTOTAL:			
FRINGE BENEFITS:			
Health Insurance			
Retirement			
SUBTOTAL:			
TOTAL:			

JUSTIFICATION/COMMENTS:

Date Prepared:

Applicant/Provider:

RFP No.:

Contract No.
(AS Applicable)

Period:

to

Date Prepared:

NAME OF BUSINESS OR INDIVIDUAL	TOTAL BUDGETED	SERVICES PROVIDED	JUSTIFICATION/COMMENTS
TOTAL:			

Applicant/Provider:

RFP No.:

Period:

10

Date Prepared:

Contract No.
(As Applicable)

NAME OF BUSINESS OR INDIVIDUAL	TOTAL BUDGETED	SERVICES PROVIDED	JUSTIFICATION/COMMENTS
TOTAL:			

Applicant/Provider: _____

RFP No.: _____

Contract No. : _____
(As Applicable)

Period: _____ to _____

Date Prepared: _____

Form SPO-H-206H (Effective 10/01/98)

Applicant/Provider:

Date Prepared:

APPENDIX I – LISTING OF QExA HEALTH PLANS

APPENDIX I

Health Plans Available by Island:

Oahu	Hawaii	Maui	Kauai	Molokai	Lanai
Evercare Ohana	Evercare Ohana	Evercare Ohana	Evercare Ohana	Ohana	Ohana

Behavioral Health Plan:

[illegible]

APPENDIX J - QExA POPULATION BY ISLAND

APPENDIX J

QExA POPULATION BY ISLAND FISCAL YEAR 2009

Island	Number of Medicaid Clients
Hawaii	7724
Kauai	1981
Maui	3141
Oahu	28391
TOTAL	41237

Note: This excludes 321 QExA clients on Molokai and 68 QExA clients on Lanai.

APPENDIX K – DEFINITION OF A GRIEVANCE

APPENDIX K

The health plan shall have a formal grievance system that is consistent with the requirements of the State of Hawaii and, and 42 CFR Part 438 Subpart F. The member grievance system shall include an inquiry process, a grievance process and appeals process. In addition, the health plan's grievance system shall provide information to members on accessing to the State's administrative hearing system. The health plan shall require that members exhaust its internal grievance system prior to accessing the State's administrative hearing system.

The health plan shall have policies and procedures for grievances and appeals. All policies must be reviewed and approved by MQD prior to implementation. A current set of policies shall be accessible for members or MQD personnel.

The health plan shall address, log, track and trend all expressions of dissatisfaction, regardless of the degree of seriousness or regardless of whether the member or provider expressly requests filing the concern or requests remedial action. The formal grievance system must be utilized for any expression of dissatisfaction and any unresolved issue.

The health plan shall give members any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to, providing interpreter services and toll-free numbers that have adequate TTY/TTD and interpreter capability.

The health plan shall acknowledge receipt of each filed grievance and appeal in writing within five (5)¹ business days of receipt of the grievance or appeal. The health plan shall have procedures in place to notify all

¹ The first day shall be the day after the day of receipt of a grievance or appeal. For example, and assuming there are no intervening holidays, if an appeal is received on Monday, the five (5) business day period for acknowledgment of receipt of the appeal is counted from Tuesday. Therefore, the acknowledgment must be sent to the member by the following Monday.

members in their primary language of grievance and appeal resolutions. These procedures may include written and oral translation activities.

The health plan shall ensure that any decision to deny a service authorization request or to authorize a service in an amount, duration, or scope that is less than requested must be made and reviewed by a healthcare professional that has appropriate medical knowledge and clinical expertise in treating the member's condition or disease.

The health plan shall ensure that individuals who make decisions on grievances and appeals were not involved in any previous level of review or decision-making and are healthcare professionals who have the appropriate clinical expertise, as determined by the State, in treating the member's condition or disease. This requirement applies specifically to reviewers of:

- An appeal of a denial that is based on a lack of medical necessity;
- A grievance regarding denial of expedited resolution of an appeal;
or
- A grievance or appeal that involves clinical issues.

